By Mr. CAMPBELL:

S. 1212. A bill to restrict United States assistance for certain reconstruction efforts in the Balkans region of Europe to United States-produced articles and services; to the Committee on Foreign Relations.

By Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. DOMENICI):

S. 1213. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

By Mr. THOMPSON (for himself, Mr. LEVIN, Mr. VOINOVICH, Mr. ROBB, Mr. COCHRAN, Mrs. LINCOLN, Mr. ENZI, Mr. BREAUX, Mr. ROTH, and Mr. BAYH):

S. 1214. A bill to ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DODD (for himself, Mr. CONRAD, and Mr. LEAHY):

S. 1215. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals; to the Committee on Veterans Affairs.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1216. A bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ASHCROFT (for himself, Mr. SHELBY, Mr. SCHUMER, Mr. BURNS, Mr. KYL, and Mr. SPECTER):

S. Res. 115. A resolution expressing the sense of the Senate regarding United States citizens killed in terrorist attacks in Israel; to the Committee on Foreign Relations.

By Mr. FITZGERALD:

S. Res. 116. A resolution condemning the arrest and detention of 13 Iranian Jews accused of espionage; to the Committee on Foreign Relations..

By Mr. CAMPBELL:

S. Res. 117. A resolution expressing the sense of the Senate regarding the United States share of any reconstruction measures undertaken in the Balkans region of Europe on account of the armed conflict and atrocities that have occurred in the Federal Republic of Yugoslavia since March 24, 1999; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ASHCROFT (for himself, Mr. FITZGERALD, Mr. SHELBY, Mr. SCHUMER, Mr. BURNS, Mr. KYL, and Mr. SPECTER):

S. 1199. A bill to require the Secretary of State to report on United States citizens injured or killed by certain terrorist groups; to the Committee on Foreign Relations.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1199

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.

(a) IN GENERAL.—Not later than October 1, 1999, and every 6 months thereafter, the Secretary of State shall prepare and submit a report, with a classified annex as necessary, to the appropriate congressional committees regarding terrorist attacks in Israel, in territory administered by Israel, and in territory administered by the Palestinian Authority. The report shall contain the following information:

(1) A list of formal commitments the Palestinian Authority has made to combat terrorism.

(2) A list of terrorist attacks, occurring between October 1, 1992 and the date of the report, against Israeli or United States citizens in Israel, in territory administered by Israel, or in territory administered by the Palestinian Authority, including—

(A) a list of all citizens of the United States killed or injured in such attacks;

(B) a list of all citizens of Israel killed or injured in such attacks;

(C) the date of each attack, the total number of people killed or injured in each attack, and the name and nationality of each victim;

(D) the person or group claiming responsibility for the attack and where such person or group has found refuge or support;

(E) a list of suspects implicated in each attack and the nationality of each suspect, including information on—

(i) which suspects are in the custody of the Palestinian Authority and which suspects are in the custody of Israel;

(ii) which suspects are still at large in areas controlled by the Palestinian Authority or Israel; and

(iii) the whereabouts (or suspected whereabouts) of suspects implicated in each attack.

(3) Of the suspects implicated in the attacks described in paragraph (2) and detained by Palestinian or Israeli authorities, information on—

(A) the date each suspect was incarcerated;

(B) whether any suspects have been released, the date of such release, whether the Secretary considers the release justified based on the evidence against the suspect, and whether any released suspect was implicated in subsequent acts of terrorism; and

(C) the status of each case pending against a suspect, including information on whether the suspect has been indicted, prosecuted, or convicted by the Palestinian Authority or Israel.

(4) Statistics on the release by the Palestinian Authority of terrorist suspects compared to the release of suspects in other violent crimes.

(5) The policy of the Department of State with respect to offering rewards for information on terrorist suspects, including any determination by the Department of State as to whether a reward should be posted for suspects involved in terrorist attacks in which United States citizens were either killed or injured, and, if not, an explanation of why a reward should not or has not been posted for a particular suspect.

(6) A list of each request by the United States for assistance in investigating terrorist attacks against United States citizens, a list of each request by the United States for the transfer of terrorist suspects from the Palestinian Authority and Israel, and the response to each request from the Palestinian Authority and Israel.

(7) A list of meetings and trips made by United States officials to the Middle East to investigate cases of terrorist attacks in the 7 years preceding the date of the report.

(8) A list of any terrorist suspects or those aiding terrorists who are members of Palestinian police or security forces, the Palestine Liberation Organization, or any Palestinian governing body.

(9) A list of all United States citizens killed or injured in terrorist attacks in Israel or in territory administered by Israel between 1948 and October 1, 1992, and a comprehensive list of all suspects involved in such attacks and their whereabouts.

(10) The amount of compensation the United States has requested for United States citizens, or their families, injured or killed in attacks by terrorists in Israel, in territory administered by Israel, or in territory administered by the Palestine Authority, and, if no compensation has been requested, an explanation of why such requests have not been made.

(b) CONSULTATION WITH OTHER DEPARTMENTS.—The Secretary of State shall, in preparing the report required by this section, consult and coordinate with all other Government officials who have information necessary to complete the report.

(c) INITIAL REPORT.—Except as provided in subsection (a)(9), the initial report filed under this section shall cover the 7 years preceding October 1, 1999.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES.—For purposes of this section, the term ''appropriate congressional Committee'' means the Committees on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

By Ms. SNOWE (for herself, Mr. REID, Mr. WARNER, Mr. TORRICELLI, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. CHAFEE, Ms. MILULSKI, Mr. SMITH of Oregon, Mrs. BOXER, Mr. SPECTER, Mr. DURBIN, Mrs. MURRAY, Mr. KERREY, Mr. ROBB, Mr. SCHUMER, Mr. JOHNSON, Mr. LAUTENBERG, Mr. CLELAND, Mr. LEAHY, Mr. HARKIN, Mr. DODD, Mr. KENNEDY, Mr. DASCHLE, Mrs. FEINSTEIN, Mrs. LINCOLN, Mr. INOUYE, Mr. AKAKA, Mr. BAYH, Mr. LIEBERMAN, Mr. WELLSTONE, and Mr. BRYAN):

S. 1200. A bill to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive

services under health plans; to the Committee on Health, Education, Labor, and Pensions.

EQUITY IN PRESCRIPTION INSURANCE AND CONTRACEPTIVE COVERAGE ACT

● Ms. SNOWE. Mr. President, I rise today with my colleague from Nevada, Senator HARRY REID, to reintroduce the Equity in Prescription Insurance and Contraceptive Coverage Act. We are back today, with the support of 30 Members of the Senate, to finish the work we began in the last Congress.

Why are we back again this year? Because the need behind the Equity in Prescription Insurance and Contraceptive Coverage Act has not abated. There are three million unintended pregnancies every year—half of all pregnancies that occur every year in this country. And frighteningly, approximately half of all unintended pregnancies end in abortion.

I am firmly pro-choice and I believe in a woman's right to a safe and legal abortion when she needs this procedure. But I want abortion to be an option that a woman rarely needs. So how do we prevent this? How do we reduce the number of unintended pregnancies?

The safest and most effective means of preventing unintended pregnancies are with prescription contraceptives. And while the vast majority of insurers cover prescription drugs, they treat prescription contraceptives very differently. In fact, half of large group plans exclude coverage of contraceptives. And only one-third cover oral contraceptives—the most popular form of reversible birth control.

When one realizes the insurance ''carve-out'' for these prescriptions and related outpatient treatments, it is no longer a mystery why women spend 68 percent more than men in out-of-pocket health care costs. No woman should have to forgo or rely on inexpensive and less effective contraceptives for purely economic reasons, knowing that she risks an unintended pregnancy.

In last year's Omnibus Appropriations Bill, Congress instructed the health plans participating in the Federal Employees Health Benefit Plan—the largest employer-sponsored health insurance plan in the world—to provide prescription contraceptive coverage if they cover prescription drugs as a part of their benefits package. The protections we afford to Members of Congress, their staff, other federal employees and annuitants, and to the approximately two million women of reproductive age who are participating in FEHBP need to be extended to the rest of the country.

Unfortunately, the lack of contraceptive coverage in health insurance is not news to most women. Countless American women have been shocked to learn that their insurance does not cover contraceptives, one of their most basic health care needs, even though other prescription drugs which are equally valuable to their lives are routinely covered. Less than half—49 percent —of all large-group health care plans cover any contraceptive method at all and only 15 percent cover the five most common reversible birth control methods. HMOs are more likely to cover contraceptives, but only 39 percent cover all five reversible methods. And ironically, 86 percent of large group plans, preferred provider organizations, and HMOs cover sterilization and between 66 and 70 percent of these different plans do cover abortion.

The concept underlying EPICC is simple. This legislation says that if insurers cover prescription drugs and devices, they must also cover FDA-approved prescription contraceptives. And in conjunction with this, EPICC requires health plans which already cover basic health care services to also cover outpatient services related to prescription contraceptives.

The bill does not require insurance companies to cover prescription drugs. What the bill does say is that if insurers cover prescription drugs, they cannot carve prescription contraceptives out of their formularies. And it says that insurers which cover outpatient health care services cannot limit or exclude coverage of the medical and counseling services necessary for effective contraceptive use.

This bill is good health policy. By helping families to adequately space their pregnancies, contraceptives contribute to healthy pregnancies and healthy births, reduce rates of maternal complications, and reduces the possibility of low-birthweight births.

Furthermore, the Equity in Prescription Insurance and Contraceptive Coverage Act makes good economic sense. We know that contraceptives are cost-effective: in the public sector, for every dollar invested in family planning, $4 to $14 is saved in health care and related costs. And all methods of reversible contraceptives are cost-effective when compared to the cost of unintended pregnancy. A sexually active woman who uses no contraception costs the health care provider an average of $3,225 in a given year. The average cost of an uncomplicated vaginal delivery in 1993 was approximately $6,400. And for every 100 women who do not use contraceptives in a given year, 85 percent will become pregnant.

Why do insurance companies exclude prescription contraceptive coverage from their list of covered benefits—especially when they cover other prescription drugs? The tendency of insurance plans to cover sterilization and abortion reflects, in part, their long-standing tendency to cover surgery and treatment over prevention. Sterilization and abortion is also cheaper. But insurers do not feel compelled to cover prescription contraceptives because they know that most women who lack contraceptive coverage will simply pay for them out of pocket. And in order to prevent an unintended pregnancy, a woman needs to be on some form of birth control for almost 30 years of her life.

The Equity in Prescription Insurance and Contraceptive Coverage Act tells insurance companies that we can no longer tolerate policies that disadvantage women and disadvantage our nation. When our bill is passed, women will finally be assured of equity in prescription drug coverage and health care services. And America's unacceptably high rates of unintended pregnancies and abortions will be reduced in the process.

The philosophy behind the bill is that contraceptives should be treated no differently than any other prescription drug or device. It does not give contraceptives any type of special insurance coverage, but instead seeks to achieve equity of treatment and parity of coverage. For that reason, the bill specifies that if a plan imposes a deductible or cost-sharing requirement on prescription drugs or devices, it can impose the same deductible or cost-sharing requirement on prescription contraception. But it cannot charge a higher cost-sharing requirement or deductible on contraceptives. Outpatient contraceptive services must also be treated similarly to general outpatient health care services.

Time and time again Americans have expressed the desire for their leaders to come together to work on the problems that face us. This bill exemplifies that spirit of cooperation. It crosses some very wide gulfs and makes some very meaningful changes in policy that will benefit countless Americans.

As someone who is pro-choice, I firmly believe that abortions should be safe, legal, and rare. Through this bill, I invite both my pro-choice and pro-life colleagues to join with me in emphasizing the rare.●

Mr. REID. Mr. President, I am proud to introduce today, with Senator SNOWE, the Equity in Prescription and Contraception Coverage Act of 1999. Senator SNOWE and I first introduced this bill in 1997.

The legislation we introduce today would require insurers, HMO's and employee health benefit plans that offer prescription drug benefits to cover contraceptive drugs and devices approved by the FDA. Further, it would require these insurers to cover outpatient contraceptive services if a plan covers other outpatient services. Lastly, it would prohibit the imposition of copays and deductibles for prescription contraceptives or outpatient services that are greater than those for other prescription drugs.

I hope that we have the success this year that we had last year in directing the Federal Health Benefit Plans to cover contraception. As many of you recall, after a tough fight, Congresswoman LOWEY and I were able to amend the Treasury Postal Appropriations bill so that Federal Health Plans must cover FDA approved contraceptives.

EPICC is about equality for women, healthy mothers and babies, and reducing the number of abortions that are

performed in this country each year. For all the advances women have made, they still earn 74 cents for every dollar a man makes and on top of that, they pay 68 percent more in out of pocket costs for health care than men. Reproductive health care services account for much of this 68 percent difference. You can be sure, if men had to pay for contraceptive drugs and devices, the insurance industry would cover them.

The health industry has done a poor job of responding to women's health needs. According to a study done by the Alan Guttmacher Institute, 49 percent of all large-group health care plans do not routinely cover any contraceptive method at all, and only 15 percent cover all five of the most common contraceptive methods.

Women are forced to use disposable income to pay for family planning services not covered by their health insurance—''the pill'' one of the most common birth control methods, can cost over $300 a year. Women who lack disposable income are forced to use less reliable methods of contraception and risk an unintended pregnancy.

If our bill was only about equality in health care coverage between men and women, that would be reason enough to pass it. But our legislation also provides the means to reduce abortions, and have healthier mothers and babies. Each year approximately 3 million pregnancies, or 50 percent of all pregnancies, in this country are unintended. Of these unintended pregnancies, about half end in abortion.

Reliable family planning methods must be made available if we wish to reduce this disturbing number.

Ironically, abortion is routinely covered by 66 percent of indemnity plans, 67 percent of preferred provider organizations, and 70 percent of HMO's. Sterilization and tubal ligation are also routinely covered. It does not make sense financially for insurance companies to cover these more expensive services, rather than contraception. But insurance companies know that women will bear the costs of contraception themselves—and if they can not afford their method of choice, there are always less expensive means to turn to. Of course less expensive also means less reliable.

This just seems like bad business to me. If a woman can not afford effective contraception, and she turns to a less effective method and gets pregnant, that pregnancy will cost the insurance company much more than it would cost them to prevent it. According to one recent study in the American Journal of Public Health, by increasing the number of women who use oral contraceptives by 15 percent, health plans would accrue enough savings in pregnancy care costs to cover oral contraceptives for all users under the plan. Studies indicate that for every dollar of public funds invested in family planning, four to fourteen dollars of public funds is saved in pregnancy and health care-related costs. Not only will a reduction in unintended pregnancies reduce abortion rates, it will also lead to a reduction in low-birth weight, infant mortality and maternal morbidity.

Low birth weight refers to babies who weigh less than 5.5 pounds at birth. How much a baby weighs at birth is directly related to the baby's survival, health and development. In Nevada, during the past decade, the percent of low birth weight babies has increased by 7 percent. These figures are important because women who use contraception and plan for the birth of their baby are more likely to get prenatal care and lead a healthier life style. The infant mortality rate measures the number of babies who die during their first year of life. In Nevada, between the years of 1995 and 1997, the infant mortality rate was 5.9, this means that of the 77,871 babies born during this period, 459 infants died before they reached their first birthday. The National Commission to Prevent Infant Mortality determined that ''infant mortality could be reduced by 10 percent if all women not desiring pregnancy used contraception.''

It is vitally important to the health of our country that quality contraception is not beyond the financial reach of women. Providing access to contraception will bring down the unintended pregnancy rate, insure good reproductive health for women, and reduce the number of abortions. It is a significant step, in my opinion, to have support from both pro-life and pro-choice Senators for this bill. Prevention is the common ground on which we can all stand. Let's begin to attack the problem of unintended pregnancies at its root.

By Mr. SCHUMER:

S. 1201. A bill to prohibit law enforcement agencies from imposing a waiting period before accepting reports of missing persons between the ages of 18 and 21; to the Committee on the Judiciary.

SUZANNE'S LAW

● Mr. SCHUMER. Mr. President, I am introducing legislation today to remedy what I believe is a significant shortcoming in federal law relating to missing person reports. My bill is entitled ''Suzanne's Law,'' to serve as a continuing reminder of the plight of Suzanne Lyall. Suzanne, a resident of Ballston Spa, New York, disappeared last year at age 19 during the course of her senior year at the State University of New York at Albany. All indications are that her disappearance was due to foul play. She has never been found, despite investigations by campus security, the local police, and the FBI. Suzanne's family, friends and relatives dearly miss her and have undertaken admirable efforts to secure improvements in campus security and in missing person reporting.

The Lyall family has brought it to my attention that federal law currently prohibits state and local law enforcement officials from imposing a 24-hour waiting period before accepting a report regarding the disappearance of a person under the age of 18, yet it does not extend similar protection for reports of missing persons between the ages of 18 and 21. This is an oversight that must be remedied. Prompt action on the part of law enforcement authorities is of the essence in missing person cases. Thus, my bill would prohibit state and local law enforcement officials from imposing a 24-hour waiting period before accepting ''missing youth'' reports—defined as reports indicating that a person of at least 18 years of age and less than 21 years of age was missing under suspicious circumstances. Enactment of this legislation would enhance the prospects for family reunification in missing person cases and may spare other families the pain and sacrifice experienced by the Lyalls.●

By Mr. CAMPBELL:

S. 1202. A bill to require a warrant of consent before an inspection of land may be carried out to enforce any law administered by the Secretary of the Interior; to the Committee on Energy and Natural Resources.

PRIVATE PROPERTY PROTECTION ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce the Private Property Protection Act of 1999.

This bill would require that Interior Department personnel obtain either the property owner's permission or a properly attained and legal search warrant before they enter someone's private property.

America's law abiding private property owners, especially our ranchers and farmers, should not be subject to unwarranted trespassing and egregious random searches by federal bureaucrats. They deserve to be treated fairly and according to the law, just like other Americans. They deserve the same private property rights that other Americans enjoy.

Under our legal system, if appropriate sworn law enforcement officers can demonstrate to a judge that there is probable cause to believe that a person has broken the law, and that there is a justified need to enter a property, then those law enforcement officials can obtain a search warrant to enter and search a private property. This is reasonable, just and how it should be. I have a firsthand understanding of this from the time I served as a Deputy Sheriff.

However, all too often our ranchers, farmers and other private property owners are being denied these same basic legal property rights when it comes to federal employees operating under endangered species laws. Interior Department employees are trespassing on private property without the owner's permission or a search warrant. Many of these Interior Department employees who are trespassing have no sworn legal authority whatsoever.

Disturbing incidents of federal agency personnel operating outside of the law, and willfully trespassing on private property without any legal just

cause, threatens to erode our fundamental property rights. One particular case that occurred in El Paso County, in my home state of Colorado, stands as a prime example.

A February 5th, 1999 article entitled ''Federal employee pleads no contest to trespassing'' in the AG JOURNAL illustrates this El Paso County case. Last fall, a U.S. Fish and Wildlife Service biologist pleaded no contest to a charge of second degree criminal trespassing. This individual is one of the many thousands employed by the Interior Department, and had no legal basis to be on a private ranch located near Colorado Springs. His sentence included a $138 fine and 30 hours of community service.

I applaud the El Paso County District Attorney's Office for standing up to federal lawyers and pursuing this case to its rightful conclusion. It is a small but important victory for American private property owners. It also illustrates a disturbing ability of some federal employees to act as though they are above the law.

Furthermore, the American taxpayers are picking up the tab for the legal defense of these trespassers. When I inquired with both the Interior Department and the Justice Department as to how much taxpayer money was spent to defend the convicted U.S. Fish and Wildlife Service trespasser, they did not disclose the specific dollar amount. These agencies seem to be sending federal personnel the message: ''Go ahead and trespass on private property. If you get caught, we'll go ahead and fix it because we think that the benefits of trespassing outweigh the costs of getting caught.'' This is not acceptable.

Unfortunately, the El Paso County incident is far from isolated. It is certain that every year, hundreds of private property owners, ranchers and farmers are subject to trespassing by federal employees. We will never know how many trespassing cases go unreported because Americans feel that they can not beat the federal government's bureaucrats and lawyers, and fear that if they do, there may be retribution.

The Colorado Cattlemen's Association has written a letter of support for the Private Property Protection Act of 1999. I appreciate their support for this legislation.

I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INSPECTIONS OF LAND TO ENFORCE LAWS ADMINISTERED BY THE SECRETARY OF THE INTERIOR.

(a) IN GENERAL.—During fiscal year 2000 and each fiscal year thereafter, notwithstanding any law that authorizes any officer or employee of the Department of the Interior to enter private land for the purpose of conducting an inspection or search and seizure for the purpose of enforcing the law, any such officer or employee shall not enter any private land without first obtaining—

(1) a warrant issued by a court of competent jurisdiction; or

(2) the consent of the owner of the land.

(b) VIOLATION AND EMERGENCY EXCEPTION.—An officer or employee of the Department of the Interior may enter private land without meeting the conditions described in subsection (a)—

(1) for the purpose of enforcing the law, if the officer or employee has reason to believe that a violation of law is being committed; or

(2) as required as part of an emergency response being conducted by the Department of the Interior.

COLORADO CATTLEMEN'S ASSOCIATION,
Arvada, CO, May 10, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR CAMPBELL: The Colorado Cattlemen's Association (CCA) supports your efforts to amend the Endangered Species Act which limits access to private property by federal government employees or agents thereof, unless by court-issued warrant or the consent of the landowner.

CCA is aware of documented instances in Colorado where Department of Interior employees repeatedly trespassed onto private lands to conduct endangered species surveys. CCA needs your help to halt this practice! We would appreciate your assistance in ensuring that private property rights and trespass laws are obeyed. Thank you for your time and consideration.

Sincerely,

FREEMAN LESTER,
President.

COLORADO FARM BUREAU,
Englewood, CO, May 24, 1999.

Hon. BEN NIGHTHORSE CAMPBELL,
U.S. Senate, Washington, DC.

DEAR SENATOR CAMPBELL: Colorado Farm Bureau strongly supports legislation to require officers or employees of the Department of the Interior to obtain a warrant or consent of the landowner before conducting inspections or search and seizure of private property. While our Bill of Rights contains protection for property owners, the provision is largely ignored in regard to the regulatory actions of the Department of the Interior.

Farm Bureau policy opposes allowing public access to or through private property without permission of the property owner or authorized agent. We support legislation that requires federal officials to notify property owners and obtain permission before going onto private lands.

Property rights protection for farmers and ranchers is critical to the success of their operations and future well being. Farm Bureau supports your efforts to protect landowners from the Interior Department entering their land without permission or a warrant.

Thank you for your continued support of agriculture.

Sincerely,

ROGER BILL MITCHELL,
President.

By Ms. MIKULSKI (for herself, Mr. FEINGOLD, Mr. DODD, Mrs. MURRAY, and Mrs. LINCOLN) (by request):

S. 1203. A bill to amend the Older Americans Act of 1965 to extend authorizations of appropriations for programs under the Act through fiscal year 2004, to establish a National Family Caregiver Support Program, to modernize aging programs and services, to address the need to engage in life course planning, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

OLDER AMERICANS ACT AMENDMENTS OF 1999

• Ms. MIKULSKI. Mr. President, I rise today to introduce the Administration's proposal to reauthorize the Older Americans Act (OAA). The Older Americans Act is a vital program that meets the day-to-day needs of our nation's seniors. Through an aging network that involves 57 state agencies on aging, 660 area agencies on aging, and 27,000 service providers, the OAA provides countless services to our country's older Americans. The OAA was last reauthorized in 1992 and its authorization expired in 1995. The time is long overdue for Congress to reauthorize this program. That is why, as the Ranking Democrat on the Subcommittee on Aging, I am working with the Chairman of the Subcommittee to introduce a bipartisan bill in the Senate to reauthorize the OAA. That's why I am here today to introduce the Administration's plan to reauthorize the Act as a courtesy and to remind my fellow colleagues about the importance of passing an OAA reauthorization bill.

Many Americans have not heard of the Older Americans Act. They've probably heard of Meals on Wheels and maybe they know about the senior center down the street. But our country's seniors who count on the services provided under the Act couldn't do without them. Whether it's congregate or home delivered meals programs, legal assistance, the long-term care ombudsman, information and assistance, or part-time community service jobs for low-income seniors. This Act covers everything from transportation to a doctor's appointment to a hot meal and companionship at a local senior center to elder abuse prevention.

But we're not going to just settle for the status quo. We must make the most of this opportunity to modernize and improve the OAA to meet the needs of seniors. That's why I'm including the National Family Caregiver Support Program in this bill I'm introducing today. Through a partnership between states and area agencies on aging, this program will provide information about resources available to family caregivers; assistance to families in locating services; caregiver counseling, training, and peer support to help them deal with the emotional and physical stresses of caregiving; and respite care. We must get behind our nation's caregivers by helping those who practice self-help. Caregivers often put in a 36 hour day: taking care of the family, pursuing a career, caring for the senior who needs care, and finding the information on care and putting together a support system. We need to

support those who are providing this invaluable care.

I want to reauthorize the OAA this year before the new millennium when our population over age 65 will more than double. I'm pleased that our colleagues in the House are moving in this direction as well. I urge my colleagues here in the Senate to act promptly once a bill is voted out of committee and support our nation's seniors by reauthorizing the Older Americans Act.●

By Mr. GRAHAM:

S. 1204. A bill to promote general and applied research for health promotion and disease prevention among the elderly, to amend title XVIII of the Social Security Act to add preventative benefits, and for other purposes; to the Committee on Finance.

HEALTHY SENIORS PROMOTION ACT OF 1999

Mr. GRAHAM. Mr. President, I rise today to announce the introduction of the Healthy Seniors Promotion Act of 1999.

This bill has a clear, simple, yet profoundly important message. That message is, ''Preventive health care for the elderly works.''

Regardless of your age, preventive health care improves quality of life. And despite common misperceptions, declines in health status are not inevitable with age. a healthier lifestyle, even one adopted later in life, can increase active life expectancy and decrease disability.

The Healthy Seniors Promotion Act of 1999 has a broad base of support from across the health care and aging communities, including the National Council on Aging, the American Geriatrics Society, the American Heart Association, the American Council of the Blind, the American College of Preventive Medicine, the National Osteoporosis Foundation, and the Partnership for Prevention.

This bill goes a long way toward changing the fundamental focus of the Medicare program from one that continues to focus on the treatment of illness and disability—a function which is reactionary—to one that is proactive and increases the attention paid to prevention for Medicare beneficiaries.

This bill has 4 main components: First, the bill establishes the healthy Seniors Promotion Program. This program will be spearheaded by an interagency workgroup within the Department of Health and Human Services, including the Health Care Financing Administration, the Centers for Disease Control and Prevention, the Agency for Health Care Policy Research, the National Institute on Aging, and the Administration on Aging.

This working group, first and foremost, will bring together all the agencies within HHS that address the social, medical, and behavioral health issues affecting the elderly, and instructs them to undertake a series of actions which will serve to increase prevention-related services among the elderly.

A major function of this working group will be to oversee the development, monitoring, and evaluation of an applied research initiative whose main goals will be to study: (1) The effectiveness of using different types of providers of care, as well as looking at alternative delivery settings, when delivering health promotion and disease prevention services, and (2) the most effective means of educating Medicare beneficiaries and providers regarding the importance of prevention and to examine ways to improve utilization of existing and future prevention-related services.

Mr. President, this latter point is critical. The fact is that there are a number of prevention-related services available to Medicare beneficiaries today, including mammograms and colorectal cancer screening. But those services are seriously underutilized.

In a study published by Dartmouth University this spring—The Dartmouth Atlas of health Care 1999—it was found that only 28 percent of women age 65–69 receive mammograms and only 12 percent of beneficiaries were screened for colorectal cancer.

These are disturbing figures and they clearly demonstrate the need to find new and better ways to increase the rates of utilization of proven, demonstrated prevention services. Our bill would get us the information we need to increase rates of utilization for these services.

A second major portion of this bill is the coverage of additional preventive services for the Medicare program. The services that I am including focus on some of the most prominent, underlying risk factors for illness that face all Medicare beneficiaries. This bill would include screening for hypertension, counseling for tobacco cessation, screening for glaucoma, and counseling for hormone replacement therapy. Attacking these prominent risk factors would reduce Medicare beneficiaries' risk for health problems such as stroke, osteoporosis, heart disease, and blindness.

How did we choose these risk factors? We turned to the experts. Based on the recommendations of the U.S. Preventive Services Task Force, these prevention services represent the recommendations of the Task Force which is the nationally recognized body in the area of clinical prevention services.

But simply screening or counseling for a preventive benefit is not enough. For example, to tell a 68-year-old woman that she ought to receive hormone replacement therapy in order to reduce her risk or osteoporosis and bone fractures from falls, and then to tell her you won't pay for the treatment makes no sense.

Since falls and the resulting injuries are among the most serious and common medical problems suffered by the elderly—with nearly 80–90 percent of hip fractures and 60–90 percent of forearm and spine fractures among women 65 and older estimated to be osteoporosis-related—to sit idly by and not take the extra steps needed would be irresponsible.

That is why, Mr. President, we are going the extra mile. The third major section of our bill includes a limited, prevention-related outpatient prescription drug benefit. This benefit directly mirrors the services I just described, plus it provides coverage of outpatient prescription drugs for the preventive services added to the Medicare program as part of the Balanced Budget Act of 1997—e.g., mammograms, diabetes, colorectal cancer.

For example, if a 70-year-old smoker is counseled by his physician to stop smoking, that individual will now have access to all necessary and appropriate outpatient prescription drugs used as part of an approved tobacco cessation program.

By linking counseling and drug treatment, we increase the chances of success tremendously. For example, there is a 60 percent higher survival rate among individuals who quit smoking compared to smokers of all ages. And because the number of older people at risk for cancer and heart disease is higher, tobacco cessation has the potential to have a larger aggregate benefit among older persons.

Our bill also provides outpatient drugs for the treatment of hypertension, hormone replacement therapy, osteoporosis and heart disease, and glaucoma. It also provides coverage of drugs stemming from the preventive services added by the Balanced Budget Act.

While many of my colleagues would prefer to see a Medicare prescription drug benefit that is comprehensive in nature, the facts are that such a benefit is simply not affordable—$20+ billion per year—at this point in time. This bill is a down payment to current and future Medicare beneficiaries and provides them access to prescription drugs that will make a profound impact in their lives.

Important to note, this bill also states that if the Administration moves forward with and prevails in its efforts to sue the tobacco industry for the recovery of funds paid by Federal programs such as Medicare for tobacco-related illness, that half of those funds would be used to add additional categories of drugs to this limited benefit.

This bill would also instruct the Institute of Medicine to conduct a study that would, in part, create a prioritized list of prescription drugs that would be used to add new categories of drugs to the program, if and when, tobacco settlement funds become a reality in the future.

Finally, the bill contains two important studies that will be conducted on a routine, periodic basis.

The first study would require MedPAC to report to Congress every two years on how the Medicare program is, or is not, remaining competitive and modern in relationship to private sector health programs. This will

give the Congress [information it doesn't now have] the ability to assess, on an ongoing basis, how Medicare is faring in its efforts to modernize over time.

The second study will again be conducted by the Institute of Medicine. The Institute of Medicine, with input from new, original research on prevention and the elderly that we will be funding through the National Institute on Aging, will conduct a study every 5 years to assess the preventive benefit package, including prescription drugs. The study will determine whether or not the preventive benefit package needs to be modified or changed based on the most current science. A critical component of this study will be the manner in which it is presented to Congress.

To this end, I have borrowed a page from our Nation's international trade laws (The Trade Act of 1974) and developed a fast track proposal for the Institute of Medicine's recommendations. This is a deliberate effort, Mr. President, to finally get Congress out of the business of micro-managing the Medicare program and the medical and health care decisions within it. While limited to the preventive benefits package, this will offer a litmus test on a new and creative approach to future Medicare decision making. This provision would put the substantive decision making authority where it belongs, in the hands of the real experts, not the politicians and not the lobbyists who come to our offices every day. Congress, after some deliberation, would either have to accept or reject the Institute of Medicine's recommendations. A change, in my view, that would be a major, positive change in how we do business in this body.

A few final thoughts. There are many here in Congress who argue that at a time when Medicare faces an uncertain financial future, this is the last time to be adding benefits to a program that can ill afford the benefits it currently offers. Normally I would agree with this assertion. But the issue of prevention is different. The old adage of ''an ounce of prevention is worth a pound of cure'' is very relevant here. Do preventive benefits ''cost'' money in terms of making them available? Sure they do. But the return on the investment, the avoidance of the pound of cure and the related improvement in quality of life is unmistakable.

Along these lines, a longstanding problem facing lawmakers and advocates of prevention has been the position taken by the Congressional Budget Office, as they evaluate the budgetary impact of all legislative proposals, that only costs incurred by the Federal government over the next ten years can be considered in weighing the ''cost'' of adding new benefits. From a public health and quality of life standpoint, this premise is unacceptable.

Among the problems with this practice is that ''savings'' incurred by increasing the availability and utilization of preventive benefits often occur over a period of time greater than 10 years. And with the average lifespan of individuals whom are 65 being nearly 20 years—and individuals 85 and older are the fastest growing segment of the elder population—it only makes sense to look at services and benefits that improve the quality of their lives and reduce the costs to the Federal government for that 20-year lifespan and beyond.

In addition to increased lifespan, a ten-year budget scoring window doesn't factor into consideration the impact of such services on the private sector, such as productivity and absenteeism, for the many seniors that continue working beyond age 65.

The bottom line is, the most important reason to cover preventive services is to improve health. As the end of the century nears, children born now are living nearly 30 years longer than children born in 1900. While prevention services in isolation won't reduce costs, they will moderate increases in the utilization and spending on more expensive acute and chronic treatment services.

I want to leave you with these last thoughts, Mr. President. As Congress considers different ways to reform Medicare, several basic questions regarding preventive services and the elderly must be part of the debate.

(1) Is the value of improve quality of life worth the expenditure?

(2) How important is it for the Medicare population to be able to maintain healthy, functional and productive lives?

(3) Do we, as a Nation, accept the premise that quality of life for our elderly is as important as any other measure of health?

(4) If we can, in fact, delay the onset of disease for the Medicare population by improving access to preventive services and compliance with these services, how important is it to ensure that there is an overall saving to the system?

These are just some of the questions we must answer in the coming debate over Medicare reform. While improving Medicare's financial outlook for future generations is imperative, we must do it in a way that gives our seniors the ability to live longer, healthier and valued lives. I believe that by pursuing a prevention strategy that addresses some of the most fundamental risk factors for chronic illness and disability that face seniors, we will make an invaluable contribution to the Medicare reform debate and, more importantly, to current and future generations of Medicare beneficiaries.

I urge colleagues to support the Healthy Seniors Promotion Act of 1999.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PARTNERSHIP FOR PREVENTION,
Washington, DC, June 10, 1999.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: I am writing on behalf of Partnership for Prevention to express support for ''The Healthy Seniors Promotion Act of 1999.'' Partnership is a national non-profit organization committed to increasing the visibility and priority for prevention within national health policy and practice. Its diverse membership includes leading groups in health, business and industry, professional and trade associations.

We believe prevention does work for all ages—a decline in health status is not inevitable with age. A healthier lifestyle adopted later in life can increase active life expectancy and decrease disability. This is the time for greater emphasis on health promotion and disease prevention among older Americans. By delaying the onset of disease, we expect to have a healthier elderly population living longer lives and ultimately embracing Medicare's financial stability.

In this bill, your focus on specific prevention measures is well supported by the existing literature. For individuals over 65, the United States Preventive Services Task Force recommends tobacco cessation counseling with access to appropriate nicotine replacement or other appropriate products to help the individual combat nicotine addiction; hormone replacement therapy and hypertension screening with access to the appropriate drug therapy for both conditions.

A case can be made that dollar for dollar, prevention services offer an invaluable return on the investment for the Medicare eligible population especially when compared to treatment costs. We need more information on these issues and hope to work closely with the Institute of Medicine to determine additional changes to the Medicare system in the future.

I would like to highlight one additional issue. Partnership for Prevention supports using a significant portion of any funds recouped by the Federal Government from the tobacco industry for tobacco control and prevention. Public and private direct expenditures to treat health problems caused by tobacco use total more than $70 billion annually and Medicare pays more than $10 billion of that amount.

Applying a significant portion of this money will decrease tobacco use and reduce the cost to the Medicare program in the future.

Prevention services may moderate increases in health care use and spending. We believe this country should be able to reach a consensus around the importance of maintaining the quality of life and social contribution of our seniors and we applaud your initiative in moving this issue forward.

Sincerely,

WILLIAM L. ROPER, MD, MPH,
Chairman.

AMERICAN HEART ASSOCIATION,
OFFICE OF COMMUNICATIONS AND ADVOCACY,
Washington, DC, June 10, 1999.

Hon. BOB GRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR GRAHAM: The American Heart Association applauds your efforts in the ''Healthy Seniors Promotion Act'' to modernize the Medicare system by addressing both coverage for preventative screening and counseling, as well as access to prescription drugs for senior citizens.

Science continues to demonstrate the effectiveness of preventative care. Because it has not kept pace with the changing science, Medicare is an antiquated system to treat

the sick, rather than a modern healthcare system to maintain the health of the elderly. Counseling and drug therapy for smoking cessation, hypertension screening and drug treatment and counseling for hormone replacement therapy are important services that the American Heart Association believes ought to be included in a modern healthcare benefits plan. The association believes that hormone replacement therapy counseling is important because the science related to HRT and cardiovascular risk is still evolving.

As you know, the American Heart Association is dedicated to reducing death and disability from heart disease and stroke. Each year, cardiovascular disease claims more than 950,000 lives. In 1999, the health care and lost productivity costs associated with cardiovascular disease are estimated to total $286.5 billion.

To achieve our mission of reducing the burden of this devastating disease, we are committed to ensuring that patients have access to quality health care, including the medical treatment necessary to effectively prevent and control disease. For too long, senior citizens have had to work with an outdated healthcare delivery system.

Thank you for your leadership in the fight to modernize Medicare. The American Heart Association looks forward to continuing to work with you to ensure that senior citizens have access to preventive services and affordable prescription drugs.

Sincerely,

DIANE CANOVA, ESQ.,
Vice President, Advocacy.

THE AMERICAN GERIATRICS SOCIETY,
New York, NY, June 9, 1999.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The American Geriatrics Society (AGS) strongly supports your bill, the Healthy Seniors Promotion Act of 1999. The AGS thanks you for introducing this important legislation that will provide comprehensive preventive health benefits to the elderly.

The AGS is comprised of more than 6,000 physicians and other health professionals that treat frail elderly patients with chronic diseases and complex health needs.

As you know, preventive health care for the elderly can improve quality of life and delay functional decline. However, the current Medicare program does not cover substantive preventive health services. Your bill authorizes Medicare coverage of new preventive services as well as a prevention-related outpatient drug benefit. In this way, your bill would change the Medicare program from one that treats illness and disability to one that focuses on health promotion and disease prevention for Medicare beneficiaries. As the organization that represents physicians that treat only the elderly, we believe that this is a long overdue and critical program reform.

We applaud your long interest in Medicare prevention and we look forward to working with you on legislation that will enable the elderly to live longer, more productive, and healthier lives.

Sincerely,

JOSPEH G. OUSLANDER, MD,
President.

THE NATIONAL COUNCIL ON THE AGING,
Washington, DC, June 7, 1999.

Hon. BOB GRAHAM,
Hart Senate Office Building
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the National Council on the Aging (NCOA), I write to express our organization's support for the Healthy Seniors Promotion Act of 1999.

NCOA strongly believes that increased attention must be focused on actions and techniques intended to prevent illness or disability. It is easier to prevent disease than it is to cure it. The time has come to take action that would broaden and further coordinate federal programs such as Medicare related to health promotion.

Disease prevention, including access to health promotion activities, protocols, and regimens for older and disabled persons—should be included as an essential component throughout the continuum of care.

NCOA supports expanding the Medicare program to include coverage of a full range of preventive services, prevention education, and counseling, as well as prescription drugs. Your proposal is a significant step in achieving these objectives on a cost effective basis, in a manner which will dramatically improve the quality of the lives of millions of older Americans.

We deeply appreciate your strong leadership in the area of preventive care. NCOA looks forward to working with you and your staff to pass the Healthy Seniors Promotion Act.

Sincerely,

HOWARD BEDLIN,
Vice President, Public Policy and Advocacy.

AMERICAN COUNCIL OF THE BLIND,
Washington, DC, June 9, 1999.

Senator ROBERT GRAHAM,
Hart Senate Office Building
Washington, DC.

DEAR SENATOR GRAHAM. The American Council of the Blind is pleased to have the opportunity to support the Healthy Seniors Promotion Act. This legislation contains provisions for expanded Medicare coverage that are needed by a large number of visually impaired persons in this country, namely, coverage for glaucoma screening and medications.

The American Council of the Blind is a national organization of persons who are blind and visually impaired. Many of our members are seniors who have lost their vision due to glaucoma, diabetes or macular degeneration. In fact, this is the fastest growing segment of our membership. The expansion of Medicare coverage proposed in this bill would benefit these individuals by alleviating some of the financial burdens faced by those who have already developed conditions that cause vision loss, and giving peace of mind to those who can still take measures to prevent the onset of vision loss. We congratulate you for your foresight in proposing these measures and look forward to working with you to see that this legislation is approved by both houses of congress and signed into law by the president.

Thank you very much.

Respectfully,

MELANIE BRUNSON,
Director of Advocacy and Governmental Affairs.

NATIONAL OSTEOPOROSIS FOUNDATION,
Washington, DC, June 9, 1999.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The National Osteoporosis Foundation is pleased to offer its support for ''The Healthy Seniors Promotion Act of 1999''. We applaud your foresight regarding preventive health care and support your efforts to reduce, for example, stroke, osteoporosis, heart disease, and blindness.

Sincerely,

BENTE E. COONEY, MSW,
Director of Public Policy.

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
Washington, DC, June 9, 1999.

Senator BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The American College of Preventive Medicine is pleased to express its enthusiastic support for the ''Healthy Seniors Promotion Act of 1999.'' Your introduction of this bill underscores what preventive medicine professionals have known for many years, namely, that the benefits of preventive services for older Americans are just as great as for younger Americans. For many seniors, access to high quality preventive services can add years to life and life to years.

Your bill adds to the list of services covered by Medicare several services that we know to be effective in preventing serious disease. After an exhaustive and rigorous review of the scientific literature, the U.S. Preventive Services Task Force—considered by many to be the gold standard in determining the effectiveness of clinical preventive services—has identified a number of services for older Americans that are effective in preventing disease. These include tobacco cessation counseling, hypertension screening, and counseling on the benefits and risks of hormone replacement therapy—all of which would be covered under the ''Healthy Seniors Promotion Act of 1999.''

Your bill also helps ensure that important research gaps concerning preventive services for seniors are filled. It is incumbent upon the Congress to ensure that Medicare's preventive benefit package reflects the latest scientific research on the effectiveness of preventive services.

Basing coverage decisions on what the science tells us is effective is sound national health care policy. The American College of Preventive Medicine, which represents physicians concerned with health promotion and disease prevention, stands ready to assist you in working toward passage of this forward-looking and important bill.

Sincerely,

GEORGE K. ANDERSON, MD, MPH,
President.

By Mr. KOHL (for himself, Mr. BURNS, and Mr. HAGEL):

S. 1207. A bill to amend the Internal Revenue Code of 1986 to ensure that income averaging for farmers not increase a farmer's liability for the alternative minimum tax; to the Committee on Finance.

THE FARMER TAX FAIRNESS ACT

Mr. KOHL. Mr. President, I rise today to introduce the Farmer Tax Fairness Act, along with my farm state colleagues, Senators BURNS and HAGEL. This legislation is a targeted provision that will help ensure that farmers have access to tax benefits rightfully owed to them.

As you know, farmers' income often fluctuates from year to year based on unforeseen weather or market conditions. Income averaging allows farmers to ride out these unpredictable circumstances by spreading out their income over a period of years. Last year, we acted in a bipartisan manner to make income averaging a permanent provision of the tax code. Unfortunately, since that time, we have learned that, due to interaction with another tax code provision, the Alternative Minimum Tax (AMT), many of

our nation's farmers have been unfairly denied the benefits of this important accounting tool.

As you know, the AMT was originally designed to ensure that all taxpayers, particularly those eligible for certain tax preferences, paid a minimum level of taxes. Due to inflation and the enactment of other tax provisions, more and more Americans are now subject to the AMT. While other reforms are required to keep the AMT focused on its original mission, our legislation addresses the specific concern of farmers relying on income averaging. Under our legislation, if a farmer's AMT liability is greater than taxes due under the income averaging calculation, that farmer would disregard the AMT and pay taxes according to the averaging calculation. In this way, farmers would still pay tax, but would also have access to tools designed to alleviate the inevitable ups and downs of the agricultural economy.

This provision is a modest and reasonable measure designed to ensure farmers are treated fairly when it comes time to file their taxes. I urge my colleague to lend their support. Thank you.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1207

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Farmer Tax Fairness Act''.

SEC. 2. INCOME AVERAGING FOR FARMERS NOT TO INCREASE ALTERNATIVE MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Section 55(c) of the Internal Revenue Code of 1986 (defining regular tax) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following:

''(2) COORDINATION WITH INCOME AVERAGING FOR FARMERS.—Solely for purposes of this section, section 1301 (relating to averaging of farm income) shall not apply in computing the regular tax.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

By Mr. MURKOWSKI:

S. 1208. A bill to amend the Internal Revenue Code of 1986 to provide that reimbursements for costs of using passenger automobiles for charitable and other organizations are excluded from gross income; to the Committee on Finance.

CHARITABLE MILEAGE

Mr. MURKOWSKI. Mr. President, I rise to introduce modest legislation that will eliminate controversy between the IRS and people who use their automobiles to perform charitable work.

Two years, ago I was successful in convincing my colleagues that the standard mileage rate for charitable activities should be raised to 14 cents a mile. I would have preferred that the mileage rate would have been set higher, but at least this was a step in the right direction.

It has recently come to my attention that if a charity reimburses a volunteer at a rate higher than 14 cents a mile, the volunteer must include such higher reimbursement in income. Thus, for example, if a person uses his car for a voluntary food delivery program or for patient transportation and the charity reimburses the volunteer 25 cents a mile, the individual would have 11 cents of income. That is absurd, Mr. President, especially when one considers that if a person was performing the same service as an employee of a company, the person could be reimbursed tax-free at the rate of 31 cents a mile.

I understand that there have been cases where volunteer drivers have been audited and subjected to back taxes, penalties, and interest because of unreported volunteer mileage reimbursement, even though that reimbursement did not exceed the allowable business rate and the dollar amounts were quite small. Does IRS have nothing better to do than audit such individuals?

My bill would eliminate this problem. It provides that all charitable volunteer mileage reimbursement is nontaxable income to the extent that it does not exceed the standard business mileage rate and appropriate records are kept. It is important to note that my bill does not increase the allowable deduction claimed by volunteers who are not reimbursed by a charity.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1208

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 139 as section 140 and by inserting after section 138 the following new section:

''SEC. 139. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS.

''(a) IN GENERAL.—Gross income of an individual does not include amounts received, from an organization described in section 170(c), as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization. The preceding sentence shall apply only to the extent that such reimbursement would be deductible under this chapter if section 274(d) were applied—

''(1) by using the standard business mileage rate established under such section, and

''(2) as if the individual were an employee of an organization not described in section 170(c).

''(b) NO DOUBLE BENEFIT.—Subsection (a) shall not apply with respect to any expenses if the individual claims a deduction or credit for such expenses under any other provision of this title.

''(c) EXEMPTION FROM REPORTING REQUIREMENTS.—Section 6041 shall not apply with respect to reimbursements excluded from income under subsection (a).''

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 139 and inserting the following new items:

''Sec. 139. Reimbursement for use of passenger automobile for charity.
''Sec. 140. Cross reference to other Acts.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, and Mr. SANTORUM):

S. 1209. A bill to amend the Internal Revenue Code of 1986 to restore pension limits to equitable levels, and for other purposes; to the Committee on Finance.

MODIFICATIONS TO THE SECTION 415 LIMITS

Mr. MURKOWSKI. Mr. President, I rise today to introduce legislation on behalf of workers who have responsibly saved for retirement through collectively bargained, multiemployer defined benefit pension plans. I am pleased to be joined by Senators STEVENS and SANTORUM in sponsoring this bill. This legislation would raise the Section 415 limits and ensure that workers are not unfairly penalized in the amount they may receive when they retire.

Under the current rules, for some workers, benefit cutbacks resulting from the current rules means that they will not be able to retire when they wanted or needed to. For other workers, it means retirement with less income to live on.

The bill that I am introducing today will give all of these workers relief from the most confiscatory provisions of Section 415 and enable them to receive the full measure of their retirement savings.

Congress has recognized and corrected the adverse effects of Section 415 on government employee pension plans. Most recently, as part of the Tax Relief Act of 1997 (Public Law 105–34) and the Small Business Jobs Protection Act of 1996 (Public Law 104–188), we exempted government employee pension plans from the compensation-based limit, from certain early retirement limits, and from other provisions of Section 415. Other relief for government employee plans was included in earlier legislation amending Section 415.

Section 415 was enacted more then two decades ago when the pension world was quite different than it is today. The Section 415 limits were designed to place limits on pensions that could be received by highly paid executives. The passage of time and Congressional action has stood this original design on its head. The limits are forcing cutbacks in the pensions of middle income workers.

Section 415 limits the benefits payable to a worker in a defined benefit

pension plans to the lessor of: (1) the worker's average annual compensation for the three consecutive years when his compensation was the highest [the ''compensation-based limit'']; and (2) a dollar limit that is sharply reduced for retirement before the worker's Social Security normal retirement age.

The compensation-based limit assumes that the pension earned under a plan is linked to each worker's salary, as is typical in corporate pension plans. Unfortunately, that formula does not work properly when applied to multiemployer pension plans. Multiemployer plans, which cover more than ten million individuals, have long based their benefits on the collectively bargained contribution rates and years of covered employment with one or more of the multiple employers which contribute to the plan. In other words, benefits earned under a multiemployer plan have no relationship to the wages received by a worker form the contributing employers. The same benefits level is paid to all workers with the same contribution and covered employment records regardless of their individual wage histories.

A second assumption underlying the compensation-based limit is that workers' salaries increase steadily over the course of their careers so that the three highest salary years will be the last three consecutive years. While this salary history may be the norm in the corporate world, it is unusual in the multiemployer plan world. In multiemployer plan industries like building and construction, workers' wage earnings typically fluctuate from year-to-year according to several variables, including the availability of covered work and whether the worker is unable to work due to illness or disability. An individual worker's wage history may include many dramatic ups-and-downs. Because of these fluctuations, the three highest years of compensation for many multiemployer plan participants are not consecutive. Consequently, the Section 415 compensation-based limit for the workers is artificially low; lower than it would be if they were covered by corporate plans.

Thus, the premises on which the compensation-based limit is founded do not fit the reality of workers covered by multiemployer plans. And, the limit should not apply.

This bill would exempt workers covered by multiemployer plans from the compensation-based limit, just as government employees are now exempt.

Section 415's dollar limits have also been forcing severe cutbacks in the earned pensions of workers who retire under multiemployer pension plans before they reach age 65.

Construction work is physically hard, and is often performed under harsh climatic conditions. Workers are worn down sooner than in most other industries. Often, early retirement is a must. Multiemployer pension plans accommodate these needs of their covered workers by providing for early retirement, disability, and service pensions that provide a subsidized, partial or full pension benefit.

Section 415 is forcing cutbacks in these pensions because the dollar limit is severely reduced for each year younger than the Social Security normal retirement age that a worker is when he retires. For a worker who retires at age 50, the reduced dollar limit is now about $40,000 per year.

This reduced limit applies regardless of the circumstances under which the worker retires and regardless of his plan's rules regarding retirement age. A multiemployer plan participant worn out after years of physical challenge who is forced into early retirement is nonetheless subject to a reduced limit. A construction worker who, after 30 years of demanding labor, has well earned a 30-and-out service pension at age 50 is nonetheless subject to the reduced limit.

This bill will ease this early retirement benefit cutback by extending to workers covered by multiemployer plans some of the more favorable early retirement rules that now apply to government employee pension plans and other retirement plans. These rules still provide for a reduced dollar limit for retirements earlier than age 62, but the reduction is less severe than under the current rules that apply to multiemployer plans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. GENERAL RETIREMENT PLAN LIMITS.

(a) DEFINED BENEFIT PLANS.—

(1) DOLLAR LIMIT.—

(A) IN GENERAL.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plans) is amended by striking ''$90,000'' and inserting ''$180,000''.

(B) AGE ADJUSTMENTS.—Subparagraphs (C) and (D) of section 415(b)(2) are each amended by striking ''$90,000'' each place it appears in the headings and the text and inserting ''$180,000''.

(C) COLLECTIVELY BARGAINED PLANS.—Paragraph (7) of section 415(b) (relating to benefits under certain collectively bargained plans) is amended by striking ''the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' '' and inserting ''one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$180,000' ''.

(2) LIMIT REDUCED WHEN BENEFIT BEGINS BEFORE AGE 62.—Subparagraph (C) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 62''.

(3) LIMIT INCREASED WHEN BENEFIT BEGINS AFTER AGE 65.—Subparagraph (D) of section 415(b)(2) is amended by striking ''the social security retirement age'' each place it appears in the heading and text and inserting ''age 65''.

(4) MULTIEMPLOYER PLANS AND PLANS MAINTAINED BY GOVERNMENTS AND TAX EXEMPT ORGANIZATIONS.—Subparagraph (F) of section 415(b)(2) is amended to read as follows:

''(F) MULTIEMPLOYER PLANS AND PLANS MAINTAINED BY GOVERNMENTS AND TAX EXEMPT ORGANIZATIONS.—

''(i) IN GENERAL.—In the case of a governmental plan (within the meaning of section 414(d)), a plan maintained by an organization (other than a governmental unit) exempt from tax under this subtitle, a multiemployer plan (as defined in section 414(f)), or a qualified merchant marine plan, subparagraph (C) shall be applied as if the last sentence thereof read as follows: 'The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below (i) $130,000 if the benefit begins at or after age 55, or (ii) if the benefit begins before age 55, the equivalent of the $130,000 limitation for age 55.'.

''(ii) DEFINITIONS.—For purposes of this subparagraph—

''(I) QUALIFIED MERCHANT MARINE PLAN.—The term 'qualified merchant marine plan' means a plan in existence on January 1, 1986, the participants in which are merchant marine officers holding licenses issued by the Secretary of Transportation under title 46, United States Code.

''(II) EXEMPT ORGANIZATION PLAN COVERING 50 PERCENT OF ITS EMPLOYEES.—A plan shall be treated as a plan maintained by an organization (other than a governmental unit) exempt from tax under this subtitle if at least 50 percent of the employees benefiting under the plan are employees of an organization (other than a governmental unit) exempt from tax under this subtitle. If less than 50 percent of the employees benefiting under a plan are employees of an organization (other than a governmental unit) exempt from tax under this subtitle, the plan shall be treated as a plan maintained by an organization (other than a governmental unit) exempt from tax under this subtitle only with respect to employees of such an organization.''

(5) COST-OF-LIVING ADJUSTMENTS.—Subsection (d) of section 415 (related to cost-of-living adjustments) is amended—

(A) in paragraph (1)(A) by striking ''$90,000'' and inserting ''$180,000'', and

(B) in paragraph (3)(A)—

(i) by striking ''$90,000'' in the heading and inserting ''$180,000'', and

(ii) by striking ''October 1, 1986'' and inserting ''July 1, 1999''.

(b) DEFINED CONTRIBUTION PLANS.—

(1) IN GENERAL.—Subparagraph (B) of section 415(c)(1) (relating to limitation for defined contribution plans) is amended to read as follows:

''(B) the participants' compensation.''

(2) CONFORMING AMENDMENT.—Section 415(n)(2)(B) is amended by striking ''percentage''.

(c) COST-OF-LIVING ADJUSTMENTS.—

(1) PLANS MAINTAINED BY GOVERNMENTS AND TAX EXEMPT ORGANIZATIONS.—Paragraph (1) of section 415(d) (as amended by subsection (a)) is amended by striking ''and'' at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

''(C) the $130,000 amount in subsection (b)(2)(F), and''

(2) BASE PERIOD.—Paragraph (3) of section 415(d) (as amended by subsection (a)) is amended by redesignating subparagraph (D)

as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

''(D) $130,000 AMOUNT.—The base period taken into account for purposes of paragraph (1)(C) is the calendar quarter beginning July 1, 1999.''

(3) ROUNDING RULE RELATING TO DEFINED BENEFIT PLANS.—Paragraph (4) of section 415(d) is amended to read as follows:

''(4) ROUNDING.—

''(A) $180,000 AMOUNT.—Any increase under subparagraph (A) or (D) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

''(B) $130,000 AMOUNT.—Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.''

(4) CONFORMING AMENDMENT.—Subparagraph (D) of section 415(d)(3) (as amended by paragraph (2)) is amended by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)(D)''.

SEC. 3. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

''(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL AND MULTIEMPLOYER PLANS.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.''

(b) COMBINING AND AGGREGATION OF PLANS.—

(1) COMBINING OF PLANS.—Subsection (f) of section 415 (relating to combining of plans) is amended by adding at the end the following:

''(3) EXCEPTION FOR MULTIEMPLOYER PLANS.—Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated with any other plan maintained by an employer for purposes of applying the limitations established in this section, except that such plan shall be combined or aggregated with another plan which is not such a multiemployer plan solely for purposes of determining whether such other plan meets the requirements of subsection (b)(1)(A).''.

(2) CONFORMING AMENDMENT FOR AGGREGATION OF PLANS.—Subsection (g) of section 415 (relating to aggregation of plans) is amended by striking ''The Secretary'' and inserting ''Except as provided in subsection (f)(3), the Secretary''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall apply to years beginning after December 31, 1999.

Mr. STEVENS. Mr. President, today I join Senator MURKOWSKI in introducing a measure that will fix a problem with the pension limits in section 415 of the tax code as they relate to multiemployer pension plans.

This is a problem I have been trying to fix for years, and I hope we can resolve this issue during this Congress.

Section 415, as it currently stands, deprives workers of the pensions they deserve.

In 1996, Congress addressed part of the problem by relieving public employees from the limits of section 415.

It is only proper that Congress does the same for private workers covered by multiemployer plans.

Section 415 negatively impacts workers who have various employers.

Currently, the pension level is set at the employee's highest consecutive 3-year average salary.

With fluctuations in industry, sometimes employees have up and down years rather than steady increases in their wages.

This can skew the 3-year salary average for the employee, resulting in a lower pension when the worker retires.

I would like to offer an example of section 415's impact to illustrate how unfairly the current law treats workers in multiemployer plans.

Assume we are talking about a worker employed for 15 years by a local union and her highest annual salary was $15,600.

The worker retires and applies for pension benefits from the two plans by which she was covered by virtue of her previous employment.

The worker had earned a monthly benefit of $1,000 from one plan and a monthly benefit of $474 from the second plan for a total monthly income of $1,474, or $17,688 per year.

The worker looked forward to receiving this full amount throughout her retirement.

However, the benefits had to be reduced by $202 per month, or about $2,400 per year to match her highest annual salary of $15,600.

The so-called ''compensation based limit'' of section 415 of the Tax Code did not take into account disparate benefits, but intended only to address workers with a single employer likely to receive steady increases in salary.

Currently section 415 limits a worker's pension to an equal amount of the worker's average salary for the three consecutive years when the worker's salary was the highest.

Instead of receiving the $17,688 per year pension that the worker had earned under the pension plans' rules, the worker can receive only $15,253 per year.

If the worker were a public employee covered by a public plan, her pension would not be cut.

This is because public pension plans are not restricted by the compensation-based limit language of section 415.

This robs employees of the money they have earned simply because they were not a public employee.

We are always looking for ways to encourage people to save for retirement and we try to educate people of the fact that relying on Social Security alone will not be enough.

Yet we penalize many private sector employees in multiemployer plans by arbitrarily limiting the amount of pension benefits they can receive.

It is wrong, and it should be fixed.

In addition, by changing the law to allow workers to receive the full pension benefits they are entitled to, we will see more money flowing to the treasury.

This is because greater pensions to retirees means greater retirement income, much of which is subject to taxes.

I urge my colleagues to support us in fixing this problem once and for all and I thank Senator MURKOWSKI for working with me on this issue.

By Mr. CHAFEE:

S. 1210. A bill to assist in the conservation of endangered and threatened species of fauna and flora found throughout the world; to the Committee on Foreign Relations.

FOREIGN ENDANGERED SPECIES CONSERVATION ACT OF 1999

Mr. CHAFEE. Mr. President, I am pleased to introduce a bill today that will offer a new tool for the conservation of imperiled species throughout the world. This legislation would establish a fund to provide financial assistance for conservation projects for these species, which often receive little, if any, help.

The primary Federal law protecting imperiled species is the Endangered Species Act (ESA). Of the 1700 species that are endangered or threatened under the ESA, more than 560—approximately one-third—are foreign species residing outside the United States. However, the general protections of the ESA do not apply overseas, nor does the Administration prepare recovery plans for foreign species.

The primary multilateral treaty protecting endangered and threatened species is the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES identifies more than 30,000 species to be protected through restrictions on trade in their parts and products. It does not address other threats facing these species.

Consequently, the vast majority of endangered or threatened species throughout the world receive little, if any, funding by the United States. Presently, three grants programs exist for specific species—African elephants, Asian elephants, rhinos, and tigers. In FY 1999, they received an aggregate of $1.9 million. Other small conservation programs exist in India, Mexico, China, and Russia under agreements with those countries. However, no program addresses the general need to conserve imperiled species in foreign countries.

This need could not be greater. Recently, much deserved attention has been given to the decline of primate populations in both Africa and Asia as a result of habitat loss and poaching to supply a trade of bushmeat. These species vitally need funding to arrest their serious declines.

Numerous other species in the same rainforests across Africa and Asia, as well as the rainforests of the Americas, also face threats relating to habitat loss. Habitats as varied as the alpine reaches of the Himalayas, the bamboo forests of China, and tropical coral reef systems are all home to species facing the threat of extinction, such as the snow leopard, the panda and sea turtles. While the charismatic mega-fauna receive the most public attention, the vast multitude of species continue to

slip steadily towards extinction without even any public awareness.

A new grants program would be a powerful tool to begin to address the critical needs of these species, and would fill a significant gap in existing efforts. Such a program would be similar to the programs for elephants, rhinos and tigers, but would apply to any imperiled species. The existing programs have proven tremendously successful, particularly in creating local, long-term capacity within the foreign country to protect these species. The bill that I introduce today would build on these successful programs.

Specifically, the bill establishes a fund to support projects to conserve endangered and threatened species in foreign countries. The projects must be approved by the Secretary in cooperation with the Agency for International Development. Priority is to be given to projects that enhance conservation of the most imperiled species, that provide the greatest conservation benefit, that receive the greatest level of non-Federal funding, and that enhance local capacity for conservation efforts. The bill authorizes appropriations of $16 million annually for 4 years, 2001 to 2005, with $12 million authorized for the Fish and Wildlife Service, and $4 million for the National Marine Fisheries Service.

I urge my colleagues to cosponsor this worthwhile initiative. Mr. President, I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1210

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Foreign Endangered Species Conservation Act of 1999''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) numerous species of fauna and flora in foreign countries have continued to decline to the point that the long-term survival of those species in the wild is in serious jeopardy;

(2) many of those species are listed as endangered species or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or in Appendix I, II, or III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(3) there are insufficient resources available for addressing the threats facing those species, which will require the joint commitment and effort of foreign countries within the range of those species, the United States and other countries, and the private sector;

(4) the grant programs established by Congress for tigers, rhinoceroses, Asian elephants, and African elephants have proven to be extremely successful programs that provide Federal funds for conservation projects in an efficient and expeditious manner and that encourage additional support for conservation in the foreign countries where those species exist in the wild; and

(5) a new grant program modeled on the existing programs for tigers, rhinoceroses, and elephants would provide an effective means to assist in the conservation of foreign endangered species for which there are no existing grant programs.

(b) PURPOSE.—The purpose of this Act is to conserve endangered and threatened species of fauna and flora in foreign countries, and the ecosystems on which the species depend, by supporting the conservation programs for those species of foreign countries and the CITES Secretariat, promoting partnerships between the public and private sectors, and providing financial resources for those programs and partnerships.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACCOUNT.—The term ''Account'' means the Foreign Endangered and Threatened Species Conservation Account established by section 6.

(2) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Agency for International Development.

(3) CITES.—The term ''CITES'' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249), including its appendices and amendments.

(4) CONSERVATION.—The term ''conservation'' means the use of methods and procedures necessary to bring a species to the point at which there are sufficient populations in the wild to ensure the long-term viability of the species, including—

(A) protection and management of populations of foreign endangered or threatened species;

(B) maintenance, management, protection, restoration, and acquisition of habitat;

(C) research and monitoring;

(D) law enforcement;

(E) conflict resolution initiatives; and

(F) community outreach and education.

(5) FOREIGN ENDANGERED OR THREATENED SPECIES.—The term ''foreign endangered or threatened species'' means a species of fauna or flora—

(A) that is listed as an endangered or threatened species under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or that is listed in Appendix I, II, or III of CITES; and

(B) whose range is partially or wholly located in a foreign country.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or the Secretary of Commerce, as program responsibilities are vested under Reorganization Plan No. 4 of 1970 (5 U.S.C. App.).

SEC. 4. FOREIGN SPECIES CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds, the Secretary shall use amounts in the Account to provide financial assistance for projects for the conservation of foreign endangered or threatened species in foreign countries for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of foreign endangered or threatened species may be submitted to the Secretary by—

(A) any agency of a foreign country that has within its boundaries any part of the range of the foreign endangered or threatened species if the agency has authority over fauna or flora and the activities of the agency directly or indirectly affect the species;

(B) the CITES Secretariat; or

(C) any person with demonstrated expertise in the conservation of the foreign endangered or threatened species.

(2) REQUIRED INFORMATION.—A project proposal shall include—

(A) the name of the individual responsible for conducting the project, and a description of the qualifications of each individual who will conduct the project;

(B) the name of the foreign endangered or threatened species to benefit from the project;

(C) a succinct statement of the purposes of the project and the methodology for implementing the project, including an assessment of the status of the species and how the project will benefit the species;

(D) an estimate of the funds and time required to complete the project;

(E) evidence of support for the project by appropriate governmental agencies of the foreign countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(F) information regarding the source and amount of non-Federal funds available for the project; and

(G) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROPOSAL REVIEW AND APPROVAL.—

(1) REQUEST FOR ADDITIONAL INFORMATION.—If, after receiving a project proposal, the Secretary determines that the project proposal is not complete, the Secretary may request further information from the person or entity that submitted the proposal before complying with the other provisions of this subsection.

(2) REQUEST FOR COMMENTS.—The Secretary shall request written comments, and provide an opportunity of not less than 30 days for comments, on the proposal from the appropriate governmental agencies of each foreign country in which the project is to be conducted.

(3) SUBMISSION TO ADMINISTRATOR.—The Secretary shall provide to the Administrator a copy of the proposal and a copy of any comments received under paragraph (2). The Administrator may provide comments to the Secretary within 30 days after receipt of the copy of the proposal and any comments.

(4) DECISION BY THE SECRETARY.—After taking into consideration any comments received in a timely manner from the governmental agencies under paragraph (2) and the Administrator under paragraph (3), the Secretary may approve the proposal if the Secretary determines that the project promotes the conservation of foreign endangered or threatened species in foreign countries.

(5) NOTIFICATION.—Not later than 180 days after receiving a completed project proposal, the Secretary shall provide written notification of the Secretary's approval or disapproval under paragraph (4) to the person or entity that submitted the proposal and the Administrator.

(d) PRIORITY GUIDANCE.—In funding approved project proposals, the Secretary shall give priority to the following types of projects:

(1) Projects that will enhance programs for the conservation of foreign endangered and threatened species that are most imperiled.

(2) Projects that will provide the greatest conservation benefit for a foreign endangered or threatened species.

(3) Projects that receive the greatest level of assistance, in cash or in-kind, from non-Federal sources.

(4) Projects that will enhance local capacity for the conservation of foreign endangered and threatened species.

(e) PROJECT REPORTING.—Each person or entity that receives assistance under this

section for a project shall submit to the Secretary and the Administrator periodic reports (at such intervals as the Secretary considers necessary) that include all information required by the Secretary, after consultation with the Administrator, for evaluating the progress and success of the project.

(f) GUIDELINES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, after providing public notice and opportunity for comment, the Secretary of the Interior and the Secretary of Commerce shall each develop guidelines to carry out this section.

(2) PRIORITIES AND CRITERIA.—The guidelines shall specify—

(A) how the priorities for funding approved projects are to be determined; and

(B) criteria for determining which species are most imperiled and which projects provide the greatest conservation benefit.

SEC. 5. MULTILATERAL COLLABORATION.

The Secretary, in collaboration with the Secretary of State and the Administrator, shall—

(1) coordinate efforts to conserve foreign endangered and threatened species with the relevant agencies of foreign countries; and

(2) subject to the availability of appropriations, provide technical assistance to those agencies to further the agencies' conservation efforts.

SEC. 6. FOREIGN ENDANGERED AND THREATENED SPECIES CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is established in the Multinational Species Conservation Fund of the Treasury a separate account to be known as the ''Foreign Endangered and Threatened Species Conservation Account'', consisting of—

(1) amounts donated to the Account;

(2) amounts appropriated to the Account under section 7; and

(3) any interest earned on investment of amounts in the Account under subsection (c).

(b) EXPENDITURES FROM ACCOUNT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may expend from the Account, without further Act of appropriation, such amounts as are necessary to carry out section 4.

(2) ADMINISTRATIVE EXPENSES.—An amount not to exceed 6 percent of the amounts in the Account—

(A) shall be available for each fiscal year to pay the administrative expenses necessary to carry out this Act; and

(B) shall be divided between the Secretary of the Interior and the Secretary of Commerce in the same proportion as the amounts made available under section 7 are divided between the Secretaries.

(c) INVESTMENT OF AMOUNTS.—The Secretary shall invest such portion of the Account as is not required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out this Act. Amounts received by the Secretary in the form of donations shall be available until expended, without further Act of appropriation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Account for each of fiscal years 2001 through 2005—

(1) $12,000,000 for use by the Secretary of the Interior; and

(2) $4,000,000 for use by the Secretary of Commerce.

By Mr. BENNETT:

S. 1211. A bill to amend the Colorado River Basin Salinity Control Act to authorize additional measures to carry out the control of salinity upstream of Imperial Dam in a cost-effective manner; to the Committee on Energy and Natural Resources.

COLORADO RIVER BASIN SALINITY CONTROL REAUTHORIZATION LEGISLATION

Mr. BENNETT. Mr. President, I am pleased to rise today to introduce the Colorado River Basin Salinity Control Reauthorization Act of 1999. This legislation will reauthorize the funding of this program to a level of $175 million and will permit these important projects to continue forward for several years.

I do this because the Colorado River is the life link for more than 23 million people. It provides irrigation water for more than 4 million acres of land in the United States. Therefore, the quality of the water is crucial.

Salinity is one of the major problems affecting the quality of the water. Salinity damages range between $500 million and $750 million and could exceed $1.5 billion per year if future increases in salinity are not controlled. In an effort to limit future damages, the Basin States (Arizona, California, Colorado, Nevada, New Mexico, Utah and Wyoming) and the Federal Government enacted the Colorado River Basin Salinity Control Act in 1974. Because the lengthy Congressional authorization process for Bureau of Reclamation projects was impeding the implementation of cost-effective measures, Congress authorized the Bureau in 1995 to implement a competitive, basin-wide approach for salinity control.

Under the new approach, termed the Basinwide Program salinity control projects were no longer built by the Federal Government. They were, for the most part, to be built by the private sector and local and state governments. Funds would be awarded to projects on a competitive bid basis. Since this was a pilot program, Congress originally limited funds to a $75 million ceiling.

Indeed, the Basinwide Salinity Program has far exceeded original expectations by proving to be both cost effective and successful. It has an average cost of $27 per ton of salt controlled, as compared to original authority program projects that averaged $76 per ton. One of the greatest advantages of the new program comes from the integration of Reclamation's program with the U.S. Department of Agriculture's program. By integrating the USDA's on-farm irrigation improvements with the Bureau's off-farm improvements, very high efficiency rates can be obtained.

Because the cost sharing partners (private organizations and states and federal agencies) often have funds available at specific times, the new program allows the Bureau of Reclamation to quickly respond to opportunities that are time sensitive. Another significant advantage of the Basinwide program is that completed projects are ''owned'' by the local entity, and not the Bureau. The entity is responsible for performing under the proposal negotiated with the Bureau.

In 1998, Bureau of Reclamation received a record number of proposals. While still working through the 1998 proposals, the Bureau also sought out 1999 proposals which are just now being received and evaluated. Although, not all proposals will be fully funded and constructed, funding requirements for even the most favorable projects surpasses the original $75 million funding authority. In fact, if all proposals go to completion and are fully funded, the Bureau might find itself in the position that no future requests for proposals can be considered until Congress raises the authorization ceiling. In an effort to prevent that from occurring, I am introducing this legislation today. I hope my colleagues will join me in this effort and I look forward to working on this legislation with them.

By Mr. CAMPBELL:

S. 1212. A bill to restrict United States assistance for certain reconstruction efforts in the Balkans region of Europe to United States-produced articles and services; to the Committee on Foreign Relations.

KOSOVO RECONSTRUCTION INVESTMENT ACT OF 1999

Mr. CAMPBELL. Mr. President, today I introduce the Kosovo Reconstruction Investment Act of 1999.

This legislation would require that the United States foreign aid funds committed to the reconstruction of Kosovo and other parts of the Balkans in the wake of the Kosovo conflict will be used to purchase American-made goods and services whenever possible.

This legislation provides a win-win approach to reconstruction by helping the people of Kosovo and others who live in the Balkans who have suffered as a result of the Kosovo conflict while also looking out for American workers.

The people of Kosovo and the Balkans will win by having new homes, hospitals, factories, bridges, and much more rebuilt. They will have roofs over their heads, places to go for health care and to work, and the roads and bridges needed to get there.

The American people will win as a sizable portion of their hard-earned taxpayer dollars will come back to the United States in the form of new orders for American-made goods and services. New jobs will be created. With this legislation we can make the best out of a looming, costly, and long-term burden on our Nation's budget.

This will be especially important for some of our key industries, such as agriculture and steel, that are facing hard times here at home. Other hard-working Americans from industries like manufacturing, engineering, construction, and telecommunications will also enjoy new opportunities to produce goods and services for the people of Southeastern Europe.

For example, our ranchers and farmers, many of whom are being severely harmed by a combination of tough

competition at home, cheap imports and closed markets overseas will benefit. This bill will help provide them with the opportunity to strengthen their share in Europe's Southeastern markets.

Our steel workers, many of whom are also in a tough situation, will benefit as U.S. made steel is used to reconstruct homes, hospitals, factories, and bridges. American engineers, contractors, and other service providers will play a key role in rebuilding telecommunications and other necessary infrastructure projects.

To ensure that the Kosovo Reconstruction Investment Act does not unduly hinder the reconstruction effort, it allows for American foreign aid funds to be used to buy goods and services produced by other parties in cases where U.S. made goods and services are deemed to be ''prohibitively expensive.''

The American taxpayers are already bearing the lion's share of waging the war in Kosovo. To date, our nation's military has spent about $3 billion Kosovo war effort. Our pilots flew the vast majority of the combat sorties. In addition, the Foreign Operations supplemental appropriations bill that passed last month provided $819 million for humanitarian and refugee aid for Kosovo and surrounding countries. It has been estimated that peace keeping operations will cost an additional $3 billion in the first year alone. This is just the beginning. In the future, American taxpayers will be spending many tens of billions of dollars more as we participate in the apparently openended peacekeeping effort.

Without this legislation, those countries who largely sat on the sidelines while we fought will be allowed to sweep in and clean up. The American taxpayers' dollars should not be used as a windfall profits program to boost Western European conglomerates. The American people deserve better. The Kosovo Reconstruction Investment Act of 1999 would remedy this situation.

Yet another problem this bill would help alleviate is our exploding trade deficit which is on track to an all time high of approximately $250 billion by the end of this year. In March of this year alone, the United States posted a record 1 month trade deficit of $19.7 billion.

Furthermore, many of the other industrialized countries that regularly distribute foreign aid do not distribute it with no strings attached. For many years now, countries like Japan have also required that the foreign aid funds they distribute be used to buy products produced by their domestic companies.

We also must face the reality that there is much more to rebuilding this region than money can buy. The various ethnic groups residing throughout the Balkans must realize that they have to change their hearts and ways if there is to be any lasting peace and prosperity. We cannot do this for them. They have to do it for themselves, as communities, families, and individuals.

If they commit themselves to rule of law, freedom of speech, free and open markets, the primacy of the ballot box over bullets and a live and let live tolerance of others, they will be well on their way as they head into the new millennium.

Once again, here we are reconstructing a part of Europe. Once again, we did not start the war, but we had to finish it and then were called on to come in, pick up the pieces, and put them back together again.

If America's airmen, sailors, marines, and soldiers are good enough to win a war, then America's hard-working taxpayers, including farmers, steel workers, and engineers are good enough to help rebuild shattered countries. If we are called on to put the Balkans back together, we should do it with a fair share of goods and services made in America.

The Kosovo Reconstruction Investment Act will help make sure that both the victims of the Kosovo conflict and the American people win. I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESTRICTION ON UNITED STATES ASSISTANCE FOR CERTAIN RECONSTRUCTION EFFORTS IN THE BALKANS REGION.

(a) PROHIBITION.—

(1) IN GENERAL.—Except as provided in subsection (b), no part of any United States assistance furnished for reconstruction efforts in the Federal Republic of Yugoslavia, or any contiguous country, on account of the armed conflict or atrocities that have occurred in the Federal Republic of Yugoslavia since March 24, 1999, may consist of, or be used for the procurement of, any article produced outside the United States or any service provided by a foreign person.

(2) DETERMINATIONS OF FOREIGN PRODUCED ARTICLES.—In the application of paragraph (1), determinations of whether an article is produced outside the United States or whether a service is provided by a foreign person should be made consistent with the standards utilized by the Bureau of Economic Analysis of the Department of Commerce in its United States balance of payments statistical summary with respect to comparable determinations.

(b) EXCEPTION.—Subsection (a) shall not apply if doing so would require the procurement of any article or service that is prohibitively expensive or unavailable.

(c) DEFINITIONS.—In this section:

(1) ARTICLE.—The term ''article'' includes any agricultural commodity, steel, construction material, communications equipment, construction machinery, farm machinery, or petrochemical refinery equipment.

(2) FEDERAL REPUBLIC OF YUGOSLAVIA.—The term ''Federal Republic of Yugoslavia'' means the Federal Republic of Yugoslavia (Serbia and Montenegro) and includes Kosovo.

(3) FOREIGN PERSON.—The term ''foreign person'' means any foreign national, including any foreign corporation, partnership, other legal entity, organization, or association that is beneficially owned by foreign nationals or controlled in fact by foreign nationals.

(4) PRODUCED.—The term ''produced'', with respect to an item, includes any item mined, manufactured, made, assembled, grown, or extracted.

(5) SERVICE.—The term ''service'' includes any engineering, construction, telecommunications, or financial service.

(6) STEEL.—The term ''steel'' includes the following categories of steel products: semifinished, plates, sheets and strips, wire rods, wire and wire products, rail type products, bars, structural shapes and units, pipes and tubes, iron ore, and coke products.

(7) UNITED STATES ASSISTANCE.—The term ''United States assistance'' means any grant, loan, financing, in-kind assistance, or any other assistance of any kind.

Mr. MCCAIN (for himself, Mr. CAMPBELL, and Mr. DOMENICI):

S. 1213. A bill to amend the Indian Child Welfare Act of 1978, and for other purposes; to the Committee on Indian Affairs.

INDIAN CHILD WELFARE ACT AMENDMENTS OF 1999

Mr. MCCAIN. Mr. President, I rise today to introduce legislation to amend the Indian Child Welfare Act of 1978 to ensure stricter enforcement of timelines and fairness in Indian adoption proceedings. The primary intent of this legislation is to make the process that applies to voluntary Indian child custody and adoption proceedings more consistent, predictable, and certain. The provisions of this legislation would further advance the best interests of Indian children without eroding tribal sovereignty and the fundamental principles of Federal-Indian law.

I thank the principal cosponsors, Senators CAMPBELL and DOMENICI, for their continued support of this muchneeded legislation. Let me also point out that this bill is identical to legislation which passed the Senate by unanimous consent in 1996. It is the result of nearly two years of discussion and debate among representatives of the adoption community, Indian tribal governments, and the Congress that aimed to address some of the problems with the implementation of ICWA since its enactment in 1978.

Mr. President, ICWA was originally enacted to provide for procedural and substantive protection for Indian children and families and to recognize and formalize a substantial role for Indian tribes in cases involving involuntary and voluntary child custody proceedings, whether on or off the Indian reservation. It was also supposed to reduce uncertainties about which court had jurisdiction over an Indian child and who had what authority to influence child placement decisions. Although implementation of ICWA has been less than perfect, in the vast majority of cases ICWA has effectively provided the necessary protections. It has encouraged State and private adoption agencies and State courts to make extra efforts before removing Indian children from their homes and communities. It has required recognition by

everyone involved that an Indian child has a vital, long-term interest in keeping a connection with his or her Indian tribe.

Nonetheless, particularly in the voluntary adoption context, there have been occasional, high-profile cases which have resulted in lengthy, protracted litigation causing great anguish for the children, their adoptive families, their birth families, and their Indian tribes. This bill takes a measured and limited approach, crafted by representatives of tribal governments and the adoption community, to address these problems.

This legislation would achieve greater certainty and speed in the adoption process for Indian children by providing new guarantees of early and effective notice in all cases involving Indian children. The bill also establishes new, strict time restrictions on both the right of Indian tribes and birth families to intervene and the right of Indian birth parents to revoke their consent to an adoptive placement. Finally, the bill includes a provision which would encourage early identification of the relatively few cases involving controversy and promote the settlement of cases by making visitation agreements enforceable.

Mr. President, nothing is more sacred and more important to our future than our children. The issues surrounding Indian child welfare stir deep emotions. I am thankful that, in formulating the compromise that led to the introduction of this bill, the representatives of both the adoption community and tribal governments were able to put aside their individual desires and focus on the best interests of Indian children.

This bill represents an appropriate and fair-minded compromise proposal which would enhance the best interests of Indian children by guaranteeing speed, certainty, and stability in the adoption process. At the same time, the provisions of this bill preserve fundamental principles of Federal-Tribal law by recognizing the appropriate role of tribal governments in the lives of Indian children.

Mr. President, I believe these amendments would have been enacted several years ago had we been better able to dispel several misconceptions about the bill's purpose. I want to directly address one of these misplaced concerns—that the adoptive placement preferences in the underlying law, the Indian Child Welfare Act of 1978, would somehow lead an expectant mother seeking privacy to prefer abortion over adoption.

I want to be very clear when I say that it is my judgment, concurred in by Indian tribes, adoption advocates and many others involved with implementing the Indian Child Welfare Act, that this bill has everything to do with promoting adoption opportunities for Indian children and nothing to do with promoting abortion. It is a terrible injustice that such a misunderstanding has clouded the efforts of so many who wish to simply improve the chances for Indian children to enjoy a stable family life.

Over the years, I have had a consistently pro-life record and have actively worked with many pro-life groups to try to reduce and eliminate abortions at every possible opportunity. I firmly believe that this bill would make adoption, rather than abortion, a more compelling choice for an expectant birth mother. What could be more pro-life and pro-family than to change the law in ways which both Indian tribes and non-Indian adoptive families have asked to improve the adoption process? I strongly believe this bill, and the amendments it makes to the ICWA law, will work to the advantage of Indian children and adoptive families. It will encourage adoptions and discourage choices which lead to the tragedy of abortion.

A recent editorial by George F. Will in the Washington Post (''For Right-to-Life Realists'') underscores the importance of promoting legislative efforts, such as this bill, as good policy for protecting children and promoting families. He wrote:

> Temperate people on both sides of the abortion divide can support a requirement for parental notification, less as abortion policy than as sound family policy.
>
> . . . Republicans will be the party of adoption, removing all laws and other impediments, sparing no expense, to achieving a goal more noble even than landing on the moon—adoptive parents for every unwanted unborn baby.

Mr. President, this bill has been thoroughly analyzed and debated in the Senate, as well as among the adoption community and Indian tribal governments. I believe it is time for the Congress to act in the best interests of Indian children by enacting these amendments to the voluntary adoption procedures in the 1978 ICWA law. I urge my colleagues to once again pass these amendments and invite the House to do the same this year.

Mr. President, I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Indian Child Welfare Act Amendments of 1999''.

SEC. 2. EXCLUSIVE JURISDICTION.

Section 101(a) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1911(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by striking the last sentence and inserting the following:

''(2) An Indian tribe shall retain exclusive jurisdiction over any child custody proceeding that involves an Indian child, notwithstanding any subsequent change in the residence or domicile of the Indian child, in any case in which the Indian child—

''(A) resides or is domiciled within the reservation of that Indian tribe and is made a ward of a tribal court of that Indian tribe; or

''(B) after a transfer of jurisdiction is carried out under subsection (b), becomes a ward of a tribal court of that Indian tribe.''.

SEC. 3. INTERVENTION IN STATE COURT PROCEEDINGS.

Section 101(c) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1911(c)) is amended by striking ''In any State court proceeding'' and inserting ''Except as provided in section 103(e), in any State court proceeding''.

SEC. 4. VOLUNTARY TERMINATION OF PARENTAL RIGHTS.

Section 103(a) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1913(a)) is amended—

(1) by striking the first sentence and inserting the following:

''(a)(1) Where any parent or Indian custodian voluntarily consents to foster care or preadoptive or adoptive placement or to termination of parental rights, such consent shall not be valid unless—

''(A) executed in writing;

''(B) recorded before a judge of a court of competent jurisdiction; and

''(C) accompanied by the presiding judge's certificate that—

''(i) the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian; and

''(ii) any attorney or public or private agency that facilitates the voluntary termination of parental rights or preadoptive or adoptive placement has—

''(I) informed the natural parents of the placement options with respect to the child involved;

''(II) informed those parents of the applicable provisions of this Act; and

''(III) certified that the natural parents will be notified within 10 days after any change in the adoptive placement.'';

(2) by striking ''The court shall also certify'' and inserting the following:

''(2) The court shall also certify'';

(3) by striking ''Any consent given prior to,'' and inserting the following:

''(3) Any consent given prior to,''; and

(4) by adding at the end the following:

''(4) An Indian custodian who has the legal authority to consent to an adoptive placement shall be treated as a parent for the purposes of the notice and consent to adoption provisions of this Act.''.

SEC. 5. WITHDRAWAL OF CONSENT.

Section 103(b) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1913(b)) is amended—

(1) by inserting ''(1)'' before ''Any''; and

(2) by adding at the end the following:

''(2) Except as provided in paragraph (4), a consent to adoption of an Indian child or voluntary termination of parental rights to an Indian child may be revoked, only if—

''(A) no final decree of adoption has been entered; and

''(B)(i) the adoptive placement specified by the parent terminates; or

''(ii) the revocation occurs before the later of the end of—

''(I) the 180-day period beginning on the date on which the tribe of the Indian child receives written notice of the adoptive placement provided in accordance with the requirements of subsections (c) and (d); or

''(II) the 30-day period beginning on the date on which the parent who revokes consent receives notice of the commencement of the adoption proceeding that includes an explanation of the revocation period specified in this subclause.

''(3 Immediately upon an effective revocation under paragraph (2), the Indian child who is the subject of that revocation shall be returned to the parent who revokes consent.

''(4) Subject to paragraph (6), if, by the end of the applicable period determined under subclause (I) or (II) of paragraph (2)(B)(ii), a

consent to adoption or voluntary termination of parental rights has not been revoked, a parent may revoke such consent after that date only—

''(A) pursuant to applicable State law; or

''(B) if the parent of the Indian child involved petitions a court of competent jurisdiction, and the court finds that the consent to adoption or voluntary termination of parental rights was obtained through fraud or duress.

''(5) Subject to paragraph (6), if a consent to adoption or voluntary termination of parental rights is revoked under paragraph (4)(B), with respect to the Indian child involved—

''(A) in a manner consistent with paragraph (3), the child shall be returned immediately to the parent who revokes consent; and

''(B) if a final decree of adoption has been entered, that final decree shall be vacated.

''(6) Except as otherwise provided under applicable State law, no adoption that has been in effect for a period longer than or equal to 2 years may be invalidated under this subsection.''.

SEC. 6. NOTICE TO INDIAN TRIBES

Section 103(c) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1913(c)) is amended to read as follows:

''(c)(1) A party that seeks the voluntary placement of an Indian child or the voluntary termination of the parental rights of a parent of an Indian child shall provide written notice of the placement or proceeding to the tribe of that Indian child. A notice under this subsection shall be sent by registered mail (return receipt requested) to the tribe of the Indian child, not later than the applicable date specified in paragraph (2) or (3).

''(2)(A) Except as provided in paragraph (3), notice shall be provided under paragraph (1) by the applicable date specified in each of the following cases:

''(i) Not later than 100 days after any foster care placement of an Indian child occurs.

''(ii) Not later than 5 days after any preadoptive or adoptive placement of an Indian child.

''(iii) Not later than 10 days after the commencement of any proceeding for a termination of parental rights to an Indian child.

''(iv) Not later than 10 days after the commencement of any adoption proceeding concerning an Indian child.

''(B) A notice described in subparagraph (A)(ii) may be provided before the birth of an Indian child if a party referred to in paragraph (1) contemplates a specific adoptive or preadoptive placement.

''(3) If, after the expiration of the applicable period specified in paragraph (2), a party referred to in paragraph (1) discovers that the child involved may be an Indian child—

''(A) the party shall provide notice under paragraph (1) not later than 10 days after the discovery; and

''(B) any applicable time limit specified in subsection (e) shall apply to the notice provided under subparagraph (A) only if the party referred to in paragraph (1) has, on or before commencement of the placement, made reasonable inquiry concerning whether the child involved may be an Indian child.''.

SEC. 7. CONTENT OF NOTICE.

Section 103(d) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1913(d)) is amended to read as follows:

''(d) Each written notice provided under subsection (c) shall be based on a good faith investigation and contain the following:

''(1) The name of the Indian child involved, and the actual or anticipated date and place of birth of the Indian child.

''(2) A list containing the name, address, date of birth, and (if applicable) the maiden name of each Indian parent and grandparent of the Indian child, if—

''(A) known after inquiry of—

''(i) the birth parent placing the child or relinquishing parental rights; and

''(ii) the other birth parent (if available); or

''(B) otherwise ascertainable through other reasonable inquiry.

''(3) A list containing the name and address of each known extended family member (if any), that has priority in placement under section 105.

''(4) A statement of the reasons why the child involved may be an Indian child.

''(5) The names and addresses of the parties involved in any applicable proceeding in a State court.

''(6)(A) The name and address of the State court in which a proceeding referred to in paragraph (5) is pending, or will be filed; and

''(B) the date and time of any related court proceeding that is scheduled as of the date on which the notice is provided under this subsection.

''(7) If any, the tribal affiliation of the prospective adoptive parents.

''(8) The name and address of any public or private social service agency or adoption agency involved.

''(9) An identification of any Indian tribe with respect to which the Indian child or parent may be a member.

''(10) A statement that each Indian tribe identified under paragraph (9) may have the right to intervene in the proceeding referred to in paragraph (5).

''(11) An inquiry concerning whether the Indian tribe that receives notice under subsection (c) intends to intervene under subsection (e) or waive any such right to intervention.

''(12) A statement that, if the Indian tribe that receives notice under subsection (c) fails to respond in accordance with subsection (e) by the applicable date specified in that subsection, the right of that Indian tribe to intervene in the proceeding involved shall be considered to have been waived by that Indian tribe.''.

SEC. 8. INTERVENTION BY INDIAN TRIBE.

Section 103 of the Indian Child Welfare Act of 1978 (25 U.S.C. 1913) is amended by adding at the end the following:

''(e)(1) The tribe of the Indian child involved shall have the right to intervene at any time in a voluntary child custody proceeding in a State court only if—

''(A) in the case of a voluntary proceeding to terminate parental rights, the Indian tribe sent a notice of intent to intervene or a written objection to the adoptive placement to the court or to the party that is seeking the voluntary placement of the Indian child, not later than 30 days after receiving notice that was provided in accordance with the requirements of subsections (c) and (d); or

''(B) in the case of a voluntary adoption proceeding, the Indian tribe sent a notice of intent to intervene or a written objection to the adoptive placement to the court or to the party that is seeking the voluntary placement of the Indian child, not later than the later of—

''(i) 90 days after receiving notice of the adoptive placement that was provided in accordance with the requirements of subsections (c) and (d); or

''(ii) 30 days after receiving a notice of the voluntary adoption proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(2)(A) Except as provided in subparagraph (B), the tribe of the Indian child involved shall have the right to intervene at any time in a voluntary child custody proceeding in a State court in any case in which the Indian tribe did not receive written notice provided in accordance with the requirements of subsections (c) and (d).

''(B) An Indian tribe may not intervene in any voluntary child custody proceeding in a State court if the Indian tribe gives written notice to the State court or any party involved of—

''(i) the intent of the Indian tribe not to intervene in the proceeding; or

''(ii) the determination by the Indian tribe that—

''(I) the child involved is not a member of, or is not eligible for membership in, the Indian tribe, or

''(II) neither parent of the child is a member of the Indian tribe.

''(3) If an Indian tribe files a motion for intervention in a State court under this subsection, the Indian tribe shall submit to the court, at the same time as the Indian tribe files that motion, a tribal certification that includes a statement that documents, with respect to the Indian child involved, the membership or eligibility for membership of that Indian child in the Indian tribe under applicable tribal law.

''(f) Any act or failure to act of an Indian tribe under subsection (e) shall not—

''(1) affect any placement preference or other right of any individual under this Act;

''(2) preclude the Indian tribe of the Indian child that is the subject of an action taken by the Indian tribe under subsection (e) from intervening in a proceeding concerning that Indian child if a proposed adoptive placement of that Indian child is changed after that action is taken; or

''(3) except as specifically provided in subsection (e), affect the applicability of this Act.

''(g) Notwithstanding any other provision of law, no proceeding for a voluntary termination of parental rights or adoption of an Indian child may be conducted under applicable State law before the date that is 30 days after the tribe of the Indian child receives notice of that proceeding that was provided in accordance with the requirements of subsections (c) and (d).

''(h) Notwithstanding any other provision of law (including any State law)—

''(1) a court may approve, if in the best interests of an Indian child, as part of an adoption decree of that Indian child, an agreement that states that a birth parent, an extended family member, or the tribe of the Indian child shall have an enforceable right of visitation or continued contact with the Indian child after the entry of a final decree of adoption; and

''(2) the failure to comply with any provision of a court order concerning the continued visitation or contact referred to in paragraph (1) shall not be considered to be grounds for setting aside a final decree of adoption.''.

SEC. 9. PLACEMENT OF INDIAN CHILDREN.

Section 105(c) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1915(c)) is amended—

(1) in the second sentence—

(A) by striking ''Indian child or parent'' and inserting ''parent or Indian child''; and

(B) by striking the colon after ''considered'' and inserting a period;

(2) by striking ''*Provided,* That where'' and inserting: ''In any case in which''; and

(3) by inserting after the second sentence the following: ''In any case in which a court determines that it is appropriate to consider the preference of a parent or Indian child, for purposes of subsection (a), that preference may be considered to constitute good cause.''.

SEC. 10. FRAUDULENT REPRESENTATION.

Title I of the Indian Child Welfare Act of 1978 (25 U.S.C. 1911 et seq.) is amended by adding at the end the following:

"SEC. 114. FRAUDULENT REPRESENTATION.

''(a) IN GENERAL.—With respect to any proceeding subject to this Act involving an Indian child or a child who may be considered to be an Indian child for purposes of this Act, a person, other than a birth parent of the child, shall, upon conviction, be subject to a criminal sanction under subsection (b) if that person knowingly and willfully—

''(1) falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether, for purposes of this Act—

''(A) a child is an Indian child; or

''(B) a parent is an Indian;

''(2)(A) makes any false, fictitious, or fraudulent statement, omission, or representation; or

''(B) falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact described in paragraph (1); or

''(3) assists any person in physically removing a child from the United States in order to obstruct the application of this Act.

''(b) CRIMINAL SANCTIONS.—The criminal sanctions for a violation referred to in subsection (a) are as follows:

''(1) For an initial violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 1 year, or both.

''(2) For any subsequent violation, a person shall be fined in accordance with section 3571 of title 18, United States Code, or imprisoned not more than 5 years, or both.''.

By Mr. THOMPSON (for himself, Mr. LEVIN, Mr. VOINOVICH, Mr. ROBB, Mr. COCHRAN, Mrs. LINCOLN, Mr. ENZI, Mr. BREAUX, Mr. ROTH, and Mr. BAYH):

S. 1214. A bill to ensure the liberties of the people by promoting federalism, to protect the reserved powers of the States, to impose accountability for Federal preemption of State and local laws, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days to report or be discharged.

THE FEDERALISM ACCOUNTABILITY ACT OF 1999

Mr. THOMPSON. Mr. President, today I rise to introduce the ''Federalism Accountability Act,'' a bill to promote and preserve principles of federalism. Federalism raises two fundamental questions that policy makers should answer: What should government be doing? And what level of government should do it? Everything else flows from them. That's why federalism is at the heart of our Democracy.

The Founders created a dual system of governance for America, dividing power between the Federal Government and the States. The Tenth Amendment makes clear that States retain all governmental power not granted to the Federal Government by the Constitution. The Founders intended that the State and Federal governments would check each other's encroachment on individual rights. As Alexander Hamilton stated in the Federalist Papers, No. 28:

Power being almost always the rival of power, the general government will at times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government. The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress.

The structure of our constitutional system assumes that the states will maintain a sovereign status independent of the national government. At the same time, the Supremacy Clause states that Federal laws made pursuant to the Constitution shall be the supreme law of the land. The ''Federalism Accountability Act'' is intended to require careful thought and accountability when we reconcile the competing principles embodied in the Tenth Amendment and the Supremacy Clause. Congress and the Executive Branch should not lightly exercise the powers conferred by the Supremacy Clause without also shouldering responsibility. As the Supreme Court has been signaling in recent decisions, where the authority exists, the democratic branches of the Federal Government should make the primary decisions whether or not to limit state power, and they ought to exercise this power unambiguously.

We need to face the fact that Congress and the Executive Branch too often have acted as if they have a general police power to engage in any issue, no matter how local. Both Congress and the Executive Branch have neglected to consider prudential and constitutional limits on their powers. We should not forget that even where the Federal Government has the constitutional authority to act, state governments may be better suited to address certain matters. Congress has a habit of preempting State and local law on a large scale, with little thought to the consequences. Congress and the White House are ever eager to pass federal criminal laws to appear responsive to highly publicized events. We are now finding that this often is not only unnecessary and unwise, but it also has harmful implications for crime control.

Too often, federalism principles have been ignored. The General Accounting Office reported to our Committee that there has been gross noncompliance by the agencies with the executive order on federalism that has been law since it was issued by President Reagan in 1987. In a review of over 11,000 Federal rules recently issued during a 3-year period, GAO found that the agencies had prepared only 5 federalism assessments under the federalism order. It is time for legislation to ensure that the agencies take such requirements more seriously.

To be sure, we have made some inroads on federalism. The Supreme Court has recently revived federalist doctrines. Congress passed the Unfunded Mandates Reform Act to help discourage the wholesale passage of new legislative unfunded mandates. Congress also gave the States the Safe Drinking Water Act, reduced agency micro-management, and provided block grants in welfare, transportation, drug prevention, and—just recently—education flexibility. Much of the innovation that has improved the country began at the State and local level.

But unless we really understand that federalism is the foundation of our governmental system, these bright achievements will fade. As we cross into the 21st century, federalism must constantly illuminate our path. Our governmental structure is based on an optimistic belief in the power of people and their communities. I share that view. It is my hope that the Federalism Accountability Act give a greater voice to State and local governments and the people they serve and reinvigorate the debate on federalism.

The ''Federalism Accountability Act'' will promote restraint in the exercise of federal power. It establishes a rule of construction requiring an explicit statement of congressional or agency intent to preempt. Congress would be required to make explicit statements on the extent to which bills or joint resolutions are intended to preempt State or local law, and if so, an explanation of the reasons for such preemption.

Agencies would designate a federalism officer to implement the requirements of this legislation and to serve as a liaison to State and local officials. Early in the process of developing rules, Federal agencies would be required to notify, consult with, and provide an opportunity for meaningful participation by public officials of State and local governments. The agency would prepare a federalism assessment for rules that have federalism impacts. Each federalism assessment would include an analysis of: whether, why, and to what degree the Federal rule preempts state law; other significant impacts on State and local governments; measures taken by the agency, including the consideration of regulatory alternatives, to minimize the impact on State and local governments; and the extent of the agency's prior consultation with public officials, the nature of their concerns, and the extent to which those concerns have been met.

The legislation also will require the Congressional Budget Office, with the help of the Office of Management and Budget and the Congressional Research Service, to compile a report on preemptions by Federal rules, court decisions, and legislation. I hope this report will lead to an informed debate on the appropriate use of preemption to reach policy goals.

Finally, the legislation amends two existing laws to promote federalism. First, it amends the Government Performance and Results Act of 1993 to clarify that performance measures for State-administered grant programs are to be determined in cooperation with public officials. Second, it amends the Unfunded Mandates Reform Act of 1995

to clarify that major new requirements imposed on States under entitlement authority are to be scored by CBO as unfunded mandates. It also requires that where Congress has capped the Federal share of an entitlement program, then the Committee report and the accompanying CBO report must analyze whether the legislation includes new flexibility or whether there is existing flexibility to offset additional costs.

Mr. President, this legislation was developed with representatives of the ''Big 7'' organizations representing State and local government, including the National Governors' Association, the National Conference of State Legislatures, the Council of State Governments, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, and the International City/County Management Association. I am pleased that this legislation is supported by Senators LEVIN, VOINOVICH, ROBB, COCHRAN, LINCOLN, ENZI, BREAUX, ROTH, and BAYH. I urge my colleagues to support this much-needed legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federalism Accountability Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Constitution created a strong Federal system, reserving to the States all powers not delegated to the Federal Government;

(2) preemptive statutes and regulations have at times been an appropriate exercise of Federal powers, and at other times have been an inappropriate infringement on State and local government authority;

(3) on numerous occasions, Congress has enacted statutes and the agencies have promulgated rules that explicitly preempt State and local government authority and describe the scope of the preemption;

(4) in addition to statutes and rules that explicitly preempt State and local government authority, many other statutes and rules that lack an explicit statement by Congress or the agencies of their intent to preempt and a clear description of the scope of the preemption have been construed to preempt State and local government authority;

(5) in the past, the lack of clear congressional intent regarding preemption has resulted in too much discretion for Federal agencies and uncertainty for State and local governments, leaving the presence or scope of preemption to be litigated and determined by the judiciary and sometimes producing results contrary to or beyond the intent of Congress; and

(6) State and local governments are full partners in all Federal programs administered by those governments.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) promote and preserve the integrity and effectiveness of our Federal system of government;

(2) set forth principles governing the interpretation of congressional and agency intent regarding preemption of State and local government authority by Federal laws and rules;

(3) establish an information collection system designed to monitor the incidence of Federal statutory, regulatory, and judicial preemption; and

(4) recognize the partnership between the Federal Government and State and local governments in the implementation of certain Federal programs.

SEC. 4. DEFINITIONS.

In this Act the definitions under section 551 of title 5, United States Code, shall apply and the term—

(1) ''local government'' means a county, city, town, borough, township, village, school district, special district, or other political subdivision of a State;

(2) ''public officials'' means elected State and local government officials and their representative organizations;

(3) ''State''—

(A) means a State of the United States and an agency or instrumentality of a State;

(B) includes the District of Columbia and any territory of the United States, and an agency or instrumentality of the District of Columbia or such territory;

(C) includes any tribal government and an agency or instrumentality of such government; and

(D) does not include a local government of a State; and

(4) ''tribal government'' means an Indian tribe as that term is defined under section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

SEC. 5. COMMITTEE OR CONFERENCE REPORTS.

(a) IN GENERAL.—The report accompanying any bill or joint resolution of a public character reported from a committee of the Senate or House of Representatives or from a conference between the Senate and the House of Representatives shall contain an explicit statement on the extent to which the bill or joint resolution preempts State or local government law, ordinance, or regulation and, if so, an explanation of the reasons for such preemption. In the absence of a committee or conference report, the committee or conference shall report to the Senate and the House of Representatives a statement containing the information described in this section before consideration of the bill, joint resolution, or conference report.

(b) CONTENT.—The statement under subsection (a) shall include an analysis of—

(1) the extent to which the bill or joint resolution legislates in an area of traditional State authority; and

(2) the extent to which State or local government authority will be maintained if the bill or joint resolution is enacted by Congress.

SEC. 6. RULE OF CONSTRUCTION RELATING TO PREEMPTION.

(a) STATUTES.—No statute enacted after the effective date of this Act shall be construed to preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless—

(1) the statute explicitly states that such preemption is intended; or

(2) there is a direct conflict between such statute and a State or local law, ordinance, or regulation so that the two cannot be reconciled or consistently stand together.

(b) RULES.—No rule promulgated after the effective date of this Act shall be construed to preempt, in whole or in part, any State or local government law, ordinance, or regulation, unless—

(1)(A) such preemption is authorized by the statute under which the rule is promulgated; and

(B) the rule, in compliance with section 7, explicitly states that such preemption is intended; or

(2) there is a direct conflict between such rule and a State or local law, ordinance, or regulation so that the two cannot be reconciled or consistently stand together.

(c) FAVORABLE CONSTRUCTION.—Any ambiguities in this Act, or in any other law of the United States, shall be construed in favor of preserving the authority of the States and the people.

SEC. 7. AGENCY FEDERALISM ASSESSMENTS.

(a) IN GENERAL.—The head of each agency shall—

(1) be responsible for implementing this Act; and

(2) designate an officer (to be known as the federalism officer) to—

(A) manage the implementation of this Act; and

(B) serve as a liaison to State and local officials and their designated representatives.

(b) NOTICE AND CONSULTATION WITH POTENTIALLY AFFECTED STATE AND LOCAL GOVERNMENT.—Early in the process of developing a rule and before the publication of a notice of proposed rulemaking, the agency shall notify, consult with, and provide an opportunity for meaningful participation by public officials of governments that may potentially be affected by the rule for the purpose of identifying any preemption of State or local government authority or other significant federalism impacts that may result from issuance of the rule. If no notice of proposed rulemaking is published, consultation shall occur sufficiently in advance of publication of an interim final rule or final rule to provide an opportunity for meaningful participation.

(c) FEDERALISM ASSESSMENTS.—

(1) IN GENERAL.—In addition to whatever other actions the federalism officer may take to manage the implementation of this Act, such officer shall identify each proposed, interim final, and final rule having a federalism impact, including each rule with a federalism impact identified under subsection (b), that warrants the preparation of a federalism assessment.

(2) PREPARATION.—With respect to each such rule identified by the federalism officer, a federalism assessment, as described in subsection (d), shall be prepared and published in the Federal Register at the time the proposed, interim final, and final rule is published.

(3) CONSIDERATION OF ASSESSMENT.—The agency head shall consider any such assessment in all decisions involved in promulgating, implementing, and interpreting the rule.

(4) SUBMISSION TO THE OFFICE OF MANAGEMENT AND BUDGET.—Each federalism assessment shall be included in any submission made to the Office of Management and Budget by an agency for review of a rule.

(d) CONTENTS.—Each federalism assessment shall include—

(1) a statement on the extent to which the rule preempts State or local government law, ordinance, or regulation and, if so, an explanation of the reasons for such preemption;

(2) an analysis of—

(A) the extent to which the rule regulates in an area of traditional State authority; and

(B) the extent to which State or local authority will be maintained if the rule takes effect;

(3) a description of the significant impacts of the rule on State and local governments;

(4) any measures taken by the agency, including the consideration of regulatory alternatives, to minimize the impact on State and local governments; and

(5) the extent of the agency's prior consultation with public officials, the nature of their concerns, and the extent to which those concerns have been met.

(e) PUBLICATION.—For any applicable rule, the agency shall include a summary of the federalism assessment prepared under this section in a separately identified part of the statement of basis and purpose for the rule as it is to be published in the Federal Register. The summary shall include a list of the public officials consulted and briefly describe the views of such officials and the agency's response to such views.

SEC. 8. PERFORMANCE MEASURES.

Section 1115 of title 31, United States Code, is amended by adding at the end the following:

''(g) The head of an agency may not include in any performance plan under this section any agency activity that is a State-administered Federal grant program, unless the performance measures for the activity are determined in cooperation with public officials as defined under section 4 of the Federalism Accountability Act of 1999.''.

SEC. 9. CONGRESSIONAL BUDGET OFFICE PREEMPTION REPORT.

(a) OFFICE OF MANAGEMENT AND BUDGET INFORMATION.—Not later than the expiration of the calendar year beginning after the effective date of this Act, and every year thereafter, the Director of the Office of Management and Budget shall submit to the Director of the Congressional Budget Office information describing interim final rules and final rules issued during the preceding calendar year that preempt State or local government authority.

(b) CONGRESSIONAL RESEARCH SERVICE INFORMATION.—Not later than the expiration of the calendar year beginning after the effective date of this Act, and every year thereafter, the Director of the Congressional Research Service shall submit to the Director of the Congressional Budget Office information describing court decisions issued during the preceding calendar year that preempt State or local government authority.

(c) CONGRESSIONAL BUDGET OFFICE REPORT.—

(1) IN GENERAL.—After each session of Congress, the Congressional Budget Office shall prepare a report on the extent of Federal preemption of State or local government authority enacted into law or adopted through judicial or agency interpretation of Federal statutes during the previous session of Congress.

(2) CONTENT.—The report under paragraph (1) shall contain—

(A) a list of Federal statutes preempting, in whole or in part, State or local government authority;

(B) a summary of legislation reported from committee preempting, in whole or in part, State or local government authority;

(C) a summary of rules of agencies preempting, in whole or in part, State and local government authority; and

(D) a summary of Federal court decisions on preemption.

(3) AVAILABILITY.—The report under this section shall be made available to—

(A) each committee of Congress;

(B) each Governor of a State;

(C) the presiding officer of each chamber of the legislature of each State; and

(D) other public officials and the public on the Internet.

SEC. 10. FLEXIBILITY AND FEDERAL INTERGOVERNMENTAL MANDATES.

(a) DEFINITION.—Section 421(5)(B) of the Congressional Budget Act of 1974 (2 U.S.C. 658(5)(B)) is amended—

(1) by striking ''(i)(I) would'' and inserting ''(i) would'';

(2) by striking ''(II) would'' and inserting ''(ii)(I) would''; and

(3) by striking ''(ii) the'' and inserting ''(II) the''.

(b) COMMITTEE REPORTS.—Section 423(d) of the Congressional Budget Act of 1974 (2 U.S.C. 658b(d)) is amended—

(1) in paragraph (1)(C) by striking ''and'' after the semicolon;

(2) in paragraph (2) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(3) if the bill or joint resolution would make the reduction specified in section 421(5)(B)(ii)(I), a statement of how the committee specifically intends the States to implement the reduction and to what extent the legislation provides additional flexibility, if any, to offset the reduction.''.

(c) CONGRESSIONAL BUDGET OFFICE ESTIMATES.—Section 424(a) of the Congressional Budget Act of 1974 (2 U.S.C. 658c(a)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

''(3) ADDITIONAL FLEXIBILITY INFORMATION.—The Director shall include in the statement submitted under this subsection, in the case of legislation that makes changes as described in section 421(5)(B)(ii)(I)—

''(A) if no additional flexibility is provided in the legislation, a description of whether and how the States can offset the reduction under existing law; or

''(B) if additional flexibility is provided in the legislation, whether the resulting savings would offset the reductions in that program assuming the States fully implement that additional flexibility.''.

SEC. 11. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 90 days after the date of enactment of this Act.

Mr. LEVIN. Mr. President, I am happy to join Senators THOMPSON and VOINOVICH and a bipartisan group of our colleagues in introducing the Federalism Accountability Act of 1999. The bill would require an explicit statement of Federal preemption in Federal legislation in order for such preemption to occur unless there exists a direct conflict between the Federal law and a State or local law which cannot be reconciled. Enactment of this bill would close the back door of implied Federal preemption and put the responsibility for determining whether or not State or local governments should be preempted back in Congress, where it belongs. The bill would also institute procedures to ensure that, in issuing new regulations, federal agencies respect State and local authority.

Mr. President, we want to ensure that the federal government works in partnership with our State and local government colleagues. One way of making sure this happens is that preemption occurs only when Congress makes a conscious decision to preempt and it is amply clear to all parties that preemption will occur. In 1991, I sponsored a bill, S. 2080, to clarify when preemption does and does not occur. I have since sponsored two similar bills. When I introduced S. 2080, I noted that ''state and local officials have become increasingly concerned with the number of instances in which State and local laws have been preempted by Federal law—not because Congress has done so explicitly, but because the courts have implied such preemption. Since 1789, Congress has enacted approximately 350 laws specifically preempting State and local authority. Half of these laws have been enacted in the last 20 years. These figures, however, do not touch upon the extensive Federal preemption of State and local authority which has occurred as a result of judicial interpretation of congressional intent, when Congress' intention to preempt has not been explicitly stated in law. When Congress is unclear about its intent to preempt, the courts must then decide whether or not preemption was intended and, if so, to what extent.''

In the ensuing time, there have been some changes, such as the Unfunded Mandates Reform Act, which have strengthened the partnership between the federal, state and local governments. Unfortunately, in the big picture, there has been little or no evidence of a change in the trends that I attempted to address when I introduced S. 2080 in 1991. Sometimes we enact a law and it is clear as to the scope of the intended preemption. Just as often, we are not clear, or a court takes language that appeared to be clear and decides that it is not, and construes it in favor of preemption. Similarly, agencies take actions that are determined to be preemptive whether their language is clear or not.

Article VI of the Constitution, the supremacy clause, states that Federal laws made pursuant to the Constitution ''shall be the supreme law of the land.'' In its most basic sense, this clause means that a State law is negated or preempted when it is in conflict with a constitutionally enacted Federal law. A significant body of case law has been developed to arrive at standards by which to judge whether or not Congress intended to preempt State or local authority—standards which are subjective and have not resulted in a consistent and predictable doctrine in resolving preemption questions.

If we in Congress want Federal law to prevail, we should be clear about that. If we want the States to have discretion to go beyond Federal requirements, we should be clear about that. If, for example, we set a floor in a Federal statute, but are silent on actions which meet but then go beyond the Federal requirement, State and local governments should be able to act as they deem appropriate. State and local governments should not have to wait to see what they can and cannot do. Our bill would allow tougher State and local laws given congressional silence.

In addition, the bill contains a requirement that agencies notify, and consult with, state and local governments and their representative organizations during the development of rules, and publish proposed and final federalism assessments along with proposed and final rules. Mr. President, it

should not be necessary to enact legislation to accomplish these things. Federal agencies should never issue rules without having the best and most complete information possible. Our State and local governments are ready, willing, and able to provide their expertise on how Federal rules will impact those governments' ability to get their jobs done. Common sense dictates that they be notified and consulted before the federal government regulates in a way that weakens or eliminates the ability of State and local governments to do their jobs, or duplicates their efforts.

The current Administration and previous ones have recognized the value of having federal agencies consult with State and local governments. However, as was amply demonstrated by a recent GAO report, Executive Order requirements for federalism assessments have been ignored. The bill would correct this noncompliance by the Executive Branch, and ensure that independent agencies, as well, will engage in such consultation and publish assessments along with rules.

Not only will the compilation and issuance of federalism assessments force the agencies to think through what they are doing, they will bolster the confidence of the public and regulated entities in the regulatory process by assuring them that their governments are acting in concert and avoiding conflicting or duplicative requirements.

Our legislation also requires the Congressional Budget Office, with the assistance of the Congressional Research Service, at the end of each Congress, to compile a report on the number of statutory and judicially interpreted preemptions. This will constitute the first time such a complete report has been done, and the information will be valuable to the debate regarding the appropriate use of preemption to reach Federal goals.

Mr. President, legislation to clarify when preemption occurs and otherwise strengthen the intergovernmental relationship has been endorsed by the major state and local government organizations. I would like to thank Senators THOMPSON and VOINOVICH and their staffs for their hard work in this area.

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation, the Federalism Accountability Act of 1999, along with my colleagues Senator FRED THOMPSON and Senator CARL LEVIN. Our legislation is the culmination of months of bipartisan effort that we believe will restore the fundamental principles of federalism.

In my 33 years of public service, at every level of government, I have seen first hand the relationship of the federal government with respect to state and local government. The nature of that relationship has molded my passion for the issue of federalism and the need to spell-out the appropriate role of the federal government with respect to our state and local governments. It is why I vowed that when I was elected to the Senate, I would work to find ways in which the federal government can be a better partner with these levels of government.

I have long been concerned with the federal government becoming involved in matters and issues which I believe are best handled by state and local governments. I also have been concerned about the tendency of the federal government to preempt our state and local governments and mandate new responsibilities without the funding to pay for them.

In a speech before the Volunteers of the National Archives in 1986 regarding thee relationship of the Constitution with America's cities and the evolution of federalism, I brought to the attention of the audience my observations since my early days in government regarding the course American government had been taking:

> We have seen the expansion of the federal government into new, non-traditional domestic policy areas. We have experienced a tremendous increase in the proclivity of Washington both to preempt state and local authority and to mandate actions on state and local governments. The cumulative effect of a series of actions by the Congress, the Executive Branch and the U.S. Supreme Court have caused some legal scholars to observe that while constitutional federalism is alive in scholarly treatises, it has expired as a practical political reality.

We have made great progress since I gave that speech more than a dozen years go.

An outstanding article last year written by Carl Tubbesing, the deputy executive director of the National Council of State Legislatures, in State Legislatures magazine, outlined what he called the five ''hallmarks of devolution''—legislation in the 1990's that changed the face of the federal-state-local government partnership and reversed the decades long trend toward federal centralization.

These bills are the Unfunded Mandates Reform Act, the Safe Drinking Water Reform Act Amendments, Welfare Reform, Medicaid reforms such as elimination of the Boren amendment, and the establishment of the Children's Health Insurance Program.

Also, just this year, Congress has passed and the President has signed into law two important pieces of legislation which enhance the state, local and federal partnership. Those initiatives are the Education Flexibility Act, which gives our states and school districts the freedom to use their federal funds for identified education priorities, and the Anti-Tobacco Recoupment provision in the Supplemental Appropriations bill that prevents the federal government from taking any portion of the $246 billion in tobacco settlement funds from the states.

Although these achievements have helped revive federalism, it is clear that state and local governments still need protection from federal encroachment in state and local affairs. It is equally clear that the federal government needs to do more to be better partners with our state and local governments. As Congress is less eager to impose unfunded mandates, largely because of the commitments we won through the Unfunded Mandates law, there is a growing interest in imposing policy preemptions. The proposed federal moratorium on all state and local taxes on Internet commerce is just one striking example that could have a devastating effect on the ability of States and localities to serve their citizens.

The danger of this growing trend toward federal preemption is the reason the Federalism Accountability Act is so important. The legislation makes Congress and federal agencies clear and accountable when enacting laws and rules that preempt State and local authority. It also directs the courts to err on the side of state sovereignty when interpreting vague Federal rules and statutes where the intent to preempt state authority is unclear.

I am particularly gratified that this legislation addresses a misinterpretation of the Unfunded Mandates Reform Act as it applies to large entitlement programs. The Federalism Accountability Act clarifies that major new requirements imposed on States under entitlement authority are to be scored by the Congressional Budget Office as unfunded mandates. It also requires that where Congress has capped the Federal share of an entitlement program, the accompanying committee and CBO reports must analyze whether the legislation includes new flexibility or whether there is existing flexibility to offset additional costs incurred by the States. This important ''fix'' to the Unfunded Mandates law is long overdue and I am pleased we are including it in our federalism bill.

The Federalism Accountability Act is a welcome and needed step toward protecting our States and communities against interference from Washington. It builds upon the gains we have already made in restoring the balance between the Federal Government and the States envisioned by the Framers of our Constitution. I am proud to have played a role in crafting it, and I hope all my colleagues will lend their support to this worthy legislation.

By Mr. DODD (for himself, Mr. CONRAD, and Mr. LEAHY):

S. 1215. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals; to the Committee on Veterans Affairs.

VETERANS HEADSTONES AND MARKERS

Mr. DODD. Mr. President, I rise today to introduce a bill that will entitle each deceased veteran to an official headstone or grave marker in recognition of that veteran's contribution to this nation. Currently the VA provides a headstone or grave marker upon request only if the veteran's grave is unmarked. This provision dates back to

the Civil War when this nation wanted to ensure that none of its soldiers was buried in an unmarked grave. Of course, in this day and age, a grave rarely goes unmarked, and the official headstone or marker instead serves specifically to recognize a deceased veteran's service.

Unfortunately, this provision has not changed with the times. When families go ahead and purchase a private headstone, as nearly every family does these days, they bar themselves from receiving the government headstone or marker. On the other hand, some families who happen to be aware of this provision request the official headstone or marker prior to placing a private marker. As a result, the grave of their veteran bears both the private marker and the government marker.

All deceased veterans deserve to have their service recognized, not just those whose families make their requests prior to purchasing a private marker. The Department of Veterans Affairs is well aware of this anomaly. VA officials receive thousands of complaints each year from families who are upset about this law's arbitrary effect.

A constituent of mine, Thomas Guzzo, first brought this matter to my attention last year. His late father, Agostino Guzzo, served in the Philippines and was honorably discharged from the Army in 1947. Today, Agostino Guzzo is interred in a mausoleum at Cedar Hill Cemetery in Hartford, but the mausoleum bears no reference to his service because of the current law. Like so many families, the Guzzo family bought its own marker and subsequently found that it could not request an official VA marker.

Thomas Guzzo then contacted me, and I attempted to straighten out what I thought to be a bureaucratic mix-up. I was surprised to realize that Thomas Guzzo's difficulties resulted not from some glitch in the system, but rather from the law itself. In the end, I wrote to the Secretary of Veterans Affairs regarding Thomas Guzzo's very reasonable request. The Secretary responded that his hands were tied as a result of the obscure law. Furthermore, the Secretary's response indicated that, even if a grave marker could be provided for Thomas Guzzo, that marker could not be placed on a cemetery bench or tree that would be dedicated to the elder Guzzo. The law prevented the Department from providing a marker for placement anywhere but the grave site and thus prevents families from recognizing their veteran's service as they wish.

This bill is a modest means of solving a massive problem. It has been scored by the Congressional Budget Office at less than three million dollars per year. That is a small price to pay to recognize our deceased veterans and put their families at ease. If a family wishes to dedicate a tree or bench to their deceased veteran, this bill allows the family to place the marker on those memorials. We should give these markers to the families when they request them, and we should allow each family to recognize their deceased veteran in their own way.

This bill allows the Department of Veterans Affairs to better serve veterans and their families. I stand with thousands of veterans' families and look forward to the day when this bill's changes will be written into law.

By Mr. TORRICELLI (for himself and Mr. LAUTENBERG):

S. 1216. A bill to amend the Marine Mammal Protection Act of 1972 to establish a Marine Mammal Rescue Grant Program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MARINE MAMMAL RESCUE FUND

Mr. TORRICELLI. Mr. President, I rise today to introduce legislation to establish the Marine Mammal Rescue Fund. This legislation will amend the Marine Mammal Protection Act of 1972 by establishing a grant program that Marine Mammal Stranding Centers and Networks can use to support the important work they do in responding to marine mammal strandings and mortality events.

Since the enactment of the Marine Mammal Protection Act in 1972, 47 facilities nationally have been authorized to handle the rehabilitation of stranded marine mammals and over 400 individuals and facilities across the country are part of an authorized National Stranding Network that responds to strandings and deaths.

Mr. President, these facilities and individuals provide our country with a variety of critical services, including rescue, housing, care, rehabilitation, transport, and tracking of marine mammals and sea turtles, as well as assistance in investigating mortality events, tissue sampling, and removal of carcasses. They also work very closely with the National Marine Fisheries Service, a variety of environmental groups, and with state and local officials in rescuing, tracking and protecting marine mammals and sea turtles on the Endangered Species List. Yet they rely primarily on private donations, fundraisers, and foundation grants for their operating budgets. They receive no federal assistance, and a very few of them get some financial assistance from their states.

As an example, Mr. President, the Marine Mammal Stranding Center located in Brigantine in my home state of New Jersey was formed in 1978. To date, it has responded to over 1,500 calls for stranded whales, dolphins, seals and sea turtles that have washed ashore on New Jersey's beaches. It has also been called on to assist in strandings as far away as Delaware, Maryland, and Virginia. Yet, their operating budget for the past year was just under $300,000, with less than 6 percent ($17,000) coming from the state. Although the Stranding Center in Brigantine has never turned down a request for assistance with a stranding, trying to maintain that level of responsiveness and service becomes increasingly more difficult each year.

Virtually all the money raised by the Center, Mr. President, goes to pay for the feeding, care, and transportation of rescued marine mammals, rehabilitation (including medical care), insurance, day-to-day operation of the Center, and staff payroll. Too many times the staff are called upon to pay out-of-pocket expenses in travel, subsistence, and quarters while responding to strandings or mortality events.

Mr. President, this should not happen. These people are performing a great service to Americans across the country, and they are being asked to pay their own way as well. And when responding to mortality events, Mr. President, they are performing work that protects public health and helps assess the potential danger to human life and to other marine mammals.

I feel very strongly that we should be providing some support to the people who are doing this work. To that end, Mr. President, the legislation I am introducing would create the Marine Mammal Rescue Fund under the Marine Mammal Protection Act. It would authorize funding at $5,000,000.00, annually, over the next five years, for grants to Marine Mammal Stranding Centers and Stranding Network Members authorized by the National Marine Fisheries Service (NMFS). Grants would not exceed $100,000.00 per year, and would require a 25 percent non-federal funding matching requirement.

I am proud to offer this legislation on behalf of the Stranding Centers across the country, and look forward to working with my colleagues to ensure its passage. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARINE MAMMAL RESCUE GRANT PROGRAM.

(a) IN GENERAL.—Title IV of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1421a et seq.) is amended—

(1) by redesignating sections 408 and 409 as sections 409 and 410, respectively; and

(2) by inserting after section 407 the following:

"SEC. 408. MARINE MAMMAL RESCUE GRANT PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration.

''(2) CHIEF.—The term 'Chief' means the Chief of the Office.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''(4) STRANDING CENTER.—The term 'stranding center' means a center with respect to which the Secretary has entered into an agreement referred to in section 403 to take marine mammals under section 109(h)(1) in response to a stranding.

''(b) GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Chief, shall conduct a grant program to be known as the Marine Mammal Rescue Grant Program, to provide grants to eligible stranding centers and eligible stranding network participants for the recovery or treatment of marine mammals and the collection of health information relating to marine mammals.

''(2) APPLICATION.—In order to receive a grant under this section, a stranding center or stranding network participant shall submit an application in such form and manner as the Secretary, acting through the Chief, may prescribe.

''(3) ELIGIBILITY CRITERIA.—The Secretary, acting through the Chief and in consultation with stranding network participants, shall establish criteria for eligibility for participation in the grant program under this section.

''(4) LIMITATION.—The amount of a grant awarded under this section shall not exceed $100,000.

''(5) MATCHING REQUIREMENT.—The non-Federal share for an activity conducted by a grant recipient under the grant program under this section shall be 25 percent of the cost of that activity.

''(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce to carry out the grant program under this section, $5,000,000 for each of fiscal years 2000 through 2004.''.

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Marine Mammal Protection Act of 1972 (86 Stat. 1027) is amended by striking the items relating to sections 408 and 409 and inserting the following:

''Sec. 408. Marine Mammal Rescue Grant Program.
''Sec. 409. Authorization of appropriations.
''Sec. 410. Definitions.''.

ADDITIONAL COSPONSORS

S. 14

At the request of Mr. COVERDELL, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 14, a bill to amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

S. 87

At the request of Mr. BUNNING, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 87, a bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes.

S. 216

At the request of Mr. MOYNIHAN, the name of the Senator from New York [Mr. SCHUMER] was added as a cosponsor of S. 216, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 281

At the request of Mr. HARKIN, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 281, a bill to amend the Tariff Act of 1930 to clarify that forced or indentured labor includes forced or indentured child labor.

S. 285

At the request of Mr. MCCAIN, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 285, a bill to amend title II of the Social Security Act to restore the link between the maximum amount of earnings by blind individuals permitted without demonstrating ability to engage in substantial gainful activity and the exempt amount permitted in determining excess earnings under the earnings test.

S. 296

At the request of Mr. FRIST, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 296, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 343

At the request of Mr. BOND, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 424

At the request of Mr. COVERDELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 424, a bill to preserve and protect the free choice of individuals and employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 459

At the request of Mr. BREAUX, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 459, a bill to amend the Internal Revenue Code of 1986 to increase the State ceiling on private activity bonds.

S. 484

At the request of Mr. CAMPBELL, the name of the Senator from Illinois [Mr. FITZGERALD] was added as a cosponsor of S. 484, a bill to provide for the granting of refugee status in the United States to nationals of certain foreign countries in which American Vietnam War POW/MIAs or American Korean War POW/MIAs may be present, if those nationals assist in the return to the United States of those POW/MIAs alive.

S. 566

At the request of Mr. LUGAR, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Missouri (Mr. BOND) were added as cosponsors of S. 566, a bill to amend the Agricultural Trade Act of 1978 to exempt agricultural commodities, livestock, and value-added products from unilateral economic sanctions, to prepare for future bilateral and multilateral trade negotiations affecting United States agriculture, and for other purposes.

S. 600

At the request of Mr. WELLSTONE, the name of the Senator from New Jersey (Mr. TORRICELLI) was added as a cosponsor of S. 600, a bill to combat the crime of international trafficking and to protect the rights of victims.

S. 632

At the request of Mr. DEWINE, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 632, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 654

At the request of Mr. WELLSTONE, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 654, a bill to strengthen the rights of workers to associate, organize and strike, and for other purposes.

S. 659

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 659, a bill to amend the Internal Revenue Code of 1986 to require pension plans to provide adequate notice to individuals whose future benefit accruals are being significantly reduced, and for other purposes.

S. 670

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 670, a bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes.

S. 864

At the request of Mr. BINGAMAN, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 864, a bill to designate April 22 as Earth Day.

S. 866

At the request of Mr. CONRAD, the names of the Senator from North Carolina (Mr. EDWARDS) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 866, a bill to direct the Secretary of Health and Human Services to revise existing regulations concerning the conditions of participation for hospitals and ambulatory surgical centers under the medicare program relating to certified registered nurse anesthetists' services to make the regulations consistent with State supervision requirements.

S. 872

At the request of Mr. VOINOVICH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 872, a bill to impose certain limits on the receipt of out-of-State municipal solid waste, to authorize State and local controls over the flow of municipal solid waste, and for other purposes.

S. 897

At the request of Mr. BAUCUS, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 897, a bill to provide